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CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
SPECIAL WASTE AND WASTE PREVENTION AND
MARKET DEVELOPMENT COMMITTEE MEETING

JOE SERNA JR., CAL EPA BUILDING
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

A P P E A R A N C E S

COMMITTEE MEMBERS PRESENT:

JOSE MEDINA, Committee Chair
STEVEN R. JONES, Committee Member
MICHAEL PAPARIAN, Committee Member
CARL WASHINGTON, Committee Member

PRESENT:

MARK LEARY, Executive Director
JULIE NAUMAN, Chief Deputy Director
KATHRYN TOBIAS, Chief Legal Counsel
ELLIOT BLOCK, Legal Counsel
DEBORAH MCKEE, Board Assistant
JENNINE HARRIS, Committee Secretary

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1 P R O C E E D I N G S

2 --oOo--

3 COMMITTEE CHAIR MEDINA: This meeting is
4 called to order. Today is April the 8th, 2003, and this
5 is a meeting of the Special Waste and Market Development
6 Committee.

7 Please turn off your cell phones and pagers,
8 put 'em on vibrating mode.

9 Agendas and speaker slips are at the back of
10 the room.

11 Would you call the roll, please?

12 COMMITTEE SECRETARY HARRIS: Jones?

13 BOARD MEMBER JONES: Here.

14 COMMITTEE SECRETARY HARRIS: Paparian?

15 BOARD MEMBER PAPARIAN: Here.

16 COMMITTEE SECRETARY HARRIS: Washington?

17 BOARD MEMBER WASHINGTON: Here.

18 COMMITTEE SECRETARY HARRIS: Medina?

19 COMMITTEE CHAIR MEDINA: Here.

20 Members, any ex-parte?

21 Board Member Jones?

22 COMMITTEE MEMBER JONES: No, I think just John
23 Cupps on the Public Records Act.

24 COMMITTEE CHAIR MEDINA: Board Member Paparian?

25 COMMITTEE MEMBER PAPARIAN: I'm up to date.

1 COMMITTEE CHAIR MEDINA: Board member
2 Washington?

3 COMMITTEE MEMBER WASHINGTON: I'm up to date.

4 COMMITTEE CHAIR MEDINA: And I'm up to date as
5 well.

6 With that, I'll now turn it over to the Deputy
7 Director of Market Development, Ms. Patty Wohl.

8 MS. WOHL: Actually Jim Lee is going to present
9 the first item.

10 MR. LEE: Thank you, Patty.

11 Good morning, Chairman Medina, committee
12 members. My name is Jim Lee with the Special Waste
13 Division.

14 I want to offer a brief introduction to our
15 guest speaker this morning, Dr. Robert Blaisdell from
16 the Office of Environmental Health Hazard Assessment.
17 Dr. Blaisdell will present to the committee the results
18 of OEHHA's report to the legislature entitled, "Tire
19 Fire Smoke: Major Constituents and Potential for Public
20 Health Impacts."

21 The public health impacts of tire fires have
22 been much in the news in the last few years, the Tracy
23 and Westley tire fires, and were the impetus for the
24 commissioning of this study.

25 I believe Dr. Blaisdell will also point out

1 that the findings and conclusions of this study are
2 pertinent to many of the questions that are being raised
3 with regards to the Crippin fire in Fresno County even
4 though this was not a tire fire, per se.

5 Without further ado, let me introduce Dr.
6 Robert Blaisdell.

7 DR. BLAISDELL: Thank you. If I may have the
8 first slide, please?

9 I'm going to present a brief summary of the
10 tire fire report. This is a picture taken by the Air
11 Resources Board of the Westley tire fire at its height.

12 The California state legislature mandated OEHHA
13 to produce a report that would identify the major
14 chemical constituents of tire fire smoke, the toxicity
15 of these chemicals, and the potential health effects
16 from exposure to tire fire smoke. The report was funded
17 by the California Integrated Waste Management Board, for
18 which we're grateful.

19 As you know, there's been a number of tire
20 fires in the United States and other countries over the
21 years due to difficulties with the storage and recycling
22 of used tires. In California there have been major tire
23 fires at Panoche, Tracy, and Westley.

24 There are thousands of chemicals generated by
25 combustion, any kind of combustion, and only a limited

1 number have been identified.

2 The U.S. EPA did laboratory source testing to
3 identify individual chemical constituents of tire fire
4 smoke; in essence, burning tires in the laboratory and
5 collecting the smoke to try and identify some of the
6 chemicals.

7 Only a limited number of the chemicals that
8 have been identified have helped us get the quantitative
9 estimate of the risk. That's because most of our health
10 values have been identified for industrial chemicals and
11 not for products of combustion.

12 One of the things that we discovered in looking
13 at this data was that tire fires produce a lot more
14 polycyclic aromatic hydrocarbons, or PAHs relative to
15 other types of fires. PAHs are well-known carcinogenic
16 chemicals that are produced when you burn virtually
17 anything, if you burn wood, paper, anything, you produce
18 a certain amount of these compounds.

19 There are other carcinogenic chemicals that are
20 also emitted in tire fires such as benzene.

21 There are also a variety of highly irritating
22 chemicals produced by tire fires. These include
23 aldehydes and sulfur oxides because there's quite a bit
24 of sulfur in tires. These irritating chemicals can
25 trigger asthma attacks in individuals with preexisting

1 asthma.

2 Monitoring of the carcinogenic chemicals at the
3 Westley tire fire revealed that the airborne levels of
4 these carcinogenic chemicals were not of particular
5 public health concern. Airborne PAHs measured in
6 populated areas during the Westley tire fire by the Air
7 Resources Board were about the same as the average
8 annual concentrations in Modesto before the fire.

9 Now it is true that they burn quite a bit of
10 wood in Modesto, and that is a source of these
11 compounds, and any exposure to these compounds is not
12 particularly healthy.

13 Our second approach that we took in looking at
14 tire fire smoke was to take a look at the entire
15 mixture. There were no health studies specifically
16 available on tire fire smoke, however there are health
17 studies on other types of smoke that can provide useful
18 insight. Each tire contains about two gallons of oil.
19 This oil is similar in composition to heating oil, and
20 therefore, tire fires resemble an uncontrolled oil
21 fire.

22 The smoke is probably more irritating than an
23 oil fire because, again, because of the sulfur oxides
24 generated.

25 In our looking at studies on smoke we found an

1 epidemiological study that showed that firefighters
2 exposed to smoke from urban fires during an entire
3 working life have about a three-fold increase in lung
4 cancer. There were other studies of firefighters in the
5 literature that were essentially negative, that did not
6 show an increase in lung cancer.

7 This allowed us to kind of ballpark the risk
8 that the public would have in another way from exposure
9 to tire fire smoke. These fires typically can last, you
10 know, weeks to months, but still the public risk would
11 be much, much less than would be experienced by a
12 firefighter.

13 In addition, smoke exposure causes shortness of
14 breath, eye and respiratory irritation, headache and
15 nausea in wildland firefighters.

16 Public exposure to wood smoke from forest fires
17 causes an increase in visits to emergency rooms for
18 respiratory and cardiovascular complaints. This was
19 actually a study done by OEHHA.

20 Particulate matter. Source tests indicate that
21 tire fires give off large amounts of tiny particles
22 referred to as particulate matter. These particles are
23 small enough to be inhaled. And there are many, many
24 epidemiological studies that have been conducted on the
25 health impacts of PM-10.

1 There's an increase in hospital visits and
2 mortality from heart and lung disease that corresponds
3 to increased levels of PM-10. The vulnerable
4 populations are the elderly, those with preexisting
5 cardiovascular or respiratory disease, and children, in
6 particular because of asthma.

7 The conclusions that we drew from our
8 literature search and analysis of data was that the
9 greatest risk from exposure to tire fires is due to
10 particulate matter and irritants. This is consistent
11 with the studies that we found on the health effects of
12 smoke exposure.

13 The public health recommendations during the
14 Westley tire fire were directed toward protecting
15 against PM-10 exposure. In other words, we developed
16 certain actions that could be taken by the public with
17 certain levels of PM-10 that were being measured during
18 the tire fire.

19 And it turns out that this work was very useful
20 when OEHHA was asked to respond to the fire down in
21 Fresno, the Archie Crippin fire. The public health
22 recommendations that we developed for the Westley tire
23 fire were, were pretty much the same as what we were
24 able to use with the Archie Crippin fire. The major
25 public health threat from that fire was also the PM-10.

1 Thank you. Do you have questions?

2 COMMITTEE CHAIR MEDINA: Thank you for your
3 presentation.

4 Board members, any questions or comments?

5 Board Member Paparian.

6 COMMITTEE MEMBER PAPARIAN: Thank you. Just,
7 one of your slides indicated that at the Westley tire
8 fire there was not, I forget how you characterized it,
9 but there wasn't a huge public health concern based on
10 what the exposure was.

11 DR. BLAISDELL: Well we concluded that there
12 wasn't major public health concern from cancer causing
13 chemicals, the major threat was from the particulate
14 matter.

15 COMMITTEE MEMBER PAPARIAN: But some
16 particulate matter was a potential health problem?

17 DR. BLAISDELL: Yes, a very serious potential
18 health problem. We had PM-10 readings up in the, as
19 high as in the 180s, which is quite severe.

20 COMMITTEE MEMBER PAPARIAN: And then any
21 conclusions in terms of, it would be hard to do, in
22 terms of the size of the potential tire fire. Obviously
23 Westley was about as big as it gets, I think. The
24 future threats we have in California are probably, you
25 know, piles that are much smaller than that.

1 DR. BLAISDELL: Right. Well it's dependent
2 upon, you know, several factors, the meteorological
3 conditions, which way the wind is blowing, whether the
4 smoke hangs close to the ground, how close the public is
5 to the tire fires. All that has an impact.

6 But obviously the fewer emissions you're
7 putting into the air the less potential risk you would
8 have. So the smaller the piles the better, yes.

9 COMMITTEE MEMBER PAPARIAN: Okay. Thanks.

10 COMMITTEE CHAIR MEDINA: Board member
11 Washington.

12 COMMITTEE MEMBER WASHINGTON: Doctor, in terms
13 of, you say you used the same formulas for the tire
14 fires as you used for the Crippin fire. The Crippin
15 fires is your trash, and how did you come out using the
16 same form versus rubber and garbage.

17 DR. BLAISDELL: Well it's combustion, and we
18 looked at what was being combusted at, you know, the
19 Crippin fire, and it was a lot of wood and construction,
20 general construction debris. There wasn't anything that
21 we could see or find from talking to the firefighters
22 that led us to believe that you've got any particular
23 dangerous chemicals other than the particulate matter.

24 We'd already decided the kinds of things that
25 could be done to protect the public against particulate

1 matter. So in that sense the work that we did at
2 Westley was applicable.

3 And it's not exactly the same smoke, the tire
4 fire smoke is much more irritating and I think probably
5 more dangerous.

6 COMMITTEE CHAIR MEDINA: Again, thank you,
7 doctor.

8 If there are no further questions or comments,
9 then there's an announcement that I've been asked to
10 read, and this announcement will hold from April 1
11 through April the 30th of this year.

12 Throughout the month of April we'll be
13 conducting safety preparedness drills that will include
14 evacuating this room. This drill may occur during this
15 meeting. In order to prepare us for unexpected
16 emergencies, we do not know what date or time the alarm
17 will sound.

18 Please look for and note at least two emergency
19 exits. Exits are located inside the public hearing
20 rooms on the first and second floors, and in the
21 connecting halls outside the conference rooms within the
22 remainder of the building.

23 If the alarm sounds, evacuate immediately,
24 take all valuables with you, do not use the elevators.
25 If you have mobility concerns that would prevent you

1 from using the stairways, please let the host of the
2 meeting know so that arrangements can be made to have
3 you wait safely in a protected area.

4 You will be directed to a safe stairwell
5 vestibule, and an aide will stay with you until we have
6 heard the all clear announcement.

7 Follow your meeting host down the stairway to
8 the relocation site. If you are on floors 8 through 25
9 you will relocate five floors down.

10 If you are on floors one through seven, you
11 will evacuate to Cesar Chavez park located outside the
12 building across the street directly south of city hall.

13 If you evacuate outside of the building, obey
14 all traffic signals and be cautious when crossing the
15 street.

16 Stay at the relocation area until the all clear
17 signal and the completion of the drill is given.

18 Inside the building the completion of the drill
19 will be announced by the public address system.

20 At the park, the all clear signal will be given
21 from the command center set up on the stage.

22 If you do not hear with the announcement,
23 simply stay with and follow the lead of your meeting
24 host.

25 Thank you for cooperating with our safety

1 program. That concludes the announcement.

2 And with that, we'll next move to Patty Wohl.

3 MS. WOHL: Good morning, Board members. I'd
4 like to start out by talking about three programs in my
5 section. Beginning with, as you know we have a minimum
6 content newsprint certification process.

7 We're just finishing up the 2002
8 certifications. It looks like we have a 61 percent
9 recycled content newsprint rate which matches 2001, last
10 year. We had 31 out of 146 that asked for exemptions,
11 that's one more than last year, but we're at the same
12 compliance rate of 79 percent.

13 Seventeen companies filed after the March 1st
14 due date but before the date penalties would be
15 assessed, or we basically have one hundred percent on
16 time reporting.

17 We're still reconciling the tonnages, and so
18 we'll get back to you with the actual numbers on how
19 much was, in tons was recycled.

20 In addition, I'd like to announce the opening
21 of the 11th annual waste reduction awards program
22 application period.

23 The 2003 WRAP cycle offers participants a
24 variety of application formats available through the
25 website. The application period runs from April 1st

1 through June 30th. So we're interested in having you
2 let your favorite businesses know about that.

3 Also, the 2003 spring CalMAX catalog is
4 available. And in support of the annual recycled trade
5 show, the catalog's insert focuses on this as well as on
6 particular products produced by the vendors we'll be
7 presenting at the trade show.

8 With that, I'd like to move into today's
9 committee meeting.

10 Agenda item C or Board item 22, consideration
11 of the application to renew the Agua Mansa recycling
12 market development zone designation.

13 And Raffy Kouyoumdjian will present.

14 COMMITTEE MEMBER JONES: Mr. Chair.

15 COMMITTEE CHAIR MEDINA: Board member Jones.

16 COMMITTEE MEMBER JONES: I'd like to move
17 adoption of Resolution 2003-246, consideration of the
18 application to remove the Agua Mansa county recycling
19 market development zone designation.

20 COMMITTEE MEMBER WASHINGTON: Second.

21 COMMITTEE CHAIR MEDINA: Thank you. Resolution
22 2003-246, consideration of the application to renew the
23 Agua Mansa county recycling market development zone
24 designation has been moved by Board Jones, seconded by
25 Board member Washington.

1 Call the roll, please?

2 COMMITTEE SECRETARY HARRIS: Jones?

3 COMMITTEE MEMBER JONES: Aye.

4 COMMITTEE SECRETARY HARRIS: Paparian?

5 COMMITTEE MEMBER PAPARIAN: Aye.

6 COMMITTEE SECRETARY HARRIS: Washington?

7 COMMITTEE MEMBER WASHINGTON: Aye.

8 COMMITTEE SECRETARY HARRIS: Medina?

9 COMMITTEE CHAIR MEDINA: Aye.

10 COMMITTEE MEMBER WASHINGTON: Good job.

11 MR. KOUYOUMDJIAN: Thank you.

12 MS. WOHL: Okay. Agenda item D, which is Board
13 item 23, consideration of the application to renew the
14 Ventura County recycling market development zone
15 designation.

16 And let me just say Dassi Pintar is available
17 for questions.

18 COMMITTEE MEMBER JONES: Mr. Chair.

19 COMMITTEE CHAIR MEDINA: Board members Jones.

20 COMMITTEE MEMBER JONES: I'll move adoption of
21 Resolution 2003-247, consideration of the application to
22 renew the Ventura County recycling market development
23 zone designation.

24 COMMITTEE MEMBER WASHINGTON: Second.

25 COMMITTEE CHAIR MEDINA: Thank you. Resolution

1 2003-247 has been moved by Board Member Jones, seconded
2 by Board member Washington.

3 Substitute the previous roll call.

4 This item will be placed on consent.

5 MS. WOHL: Great. Agenda item E, which is
6 Board item 24, consideration of contractor for the
7 recycling market development revolving loan program for
8 foreclosure services.

9 And Jim La Tanner will present.

10 MR. LA TANNER: Good morning, Board members.
11 Jim La Tanner.

12 Board agenda item 24 is a followup from an
13 earlier item we had done. This is particular to us
14 contracting out, hiring a firm that does foreclosures on
15 real estate properties. This is in conjunction with one
16 particular loan that we have right now on a commercial
17 building, but we're going to set the contract up for 36
18 months should the need arise of which there are no other
19 RMDZ loans at this time we anticipate we would need this
20 one.

21 There was one bidder, it's Quality Loan Service
22 Corporation. It's owned by two lawyers that also have a
23 law firm. They set the company up specifically to do
24 foreclosures throughout the western United States for
25 SBA.

1 We contacted several of their references, and
2 they're an outstanding company. They came in with a
3 significantly low bid, roughly \$1,500, and we were
4 expecting more like 6,005. So we're --

5 COMMITTEE MEMBER WASHINGTON: Did you say
6 \$1,500?

7 MR. LA TANNER: 1,500 was their initial bid to
8 do a foreclosure. So we're happy about that.

9 Generally what the idea is, we start
10 foreclosure on this one loan, it gives us a better
11 negotiating ability to talk to the borrower to get some
12 kind of a workout or a restructure plan or repayment or
13 outside investors into the company at which time we
14 could stop the foreclosure if we had to at that point in
15 time.

16 So at this point staff recommends the Board
17 approve, or the committee approve the contractor, and we
18 would move this onto the Board.

19 COMMITTEE CHAIR MEDINA: In regard to the
20 resolution, do we need a correction in the amount of the
21 resolution? The resolution reads 10,000.

22 MR. LA TANNER: Yes, we're going to make 10,000
23 available, but the costs are expected to be just over
24 \$1,500. The 10,000 is actually for a three year period
25 should another one happen to arise, that way we'd have

1 it. If we don't utilize the money then it goes into the
2 RMDZ subaccount.

3 COMMITTEE MEMBER JONES: Mr. Chair.

4 COMMITTEE MEMBER WASHINGTON: Mr. Chair.

5 COMMITTEE CHAIR MEDINA: Board member
6 Washington.

7 COMMITTEE MEMBER WASHINGTON: Mr. Chair, I'd
8 like to move adoption of Resolution 2003-248, recycling
9 market development revolving loan program for
10 foreclosure services, RMDZ subaccount, fiscal year
11 2002-03.

12 COMMITTEE MEMBER JONES: Second.

13 COMMITTEE CHAIR MEDINA: Resolution 2003-248
14 has been moved by Board member Washington, seconded by
15 Board Member Jones.

16 Substitute the previous roll call.

17 And this will go on fiscal consent.

18 MS. WOHL: Agenda item F, which is Board item
19 25. Consideration of awards for a joint offering of the
20 reuse assistance grants for fiscal years 2002-2003 and
21 2003-2004.

22 And Sarah Weimer will present.

23 MS. WEIMER: Good morning, Chairman Medina and
24 Committee members. Sarah Weimer with the Reuse
25 Assistance Program in the Waste Prevention Market

1 Development Division.

2 This agenda item is for approval of the fiscal
3 years 02-03 and 03-04 joint offering of the reuse
4 assistance grant awards. Through the 2000-2001 budget
5 process, the Board secured \$250,000 annual expenditure
6 authority from the integrated waste management account,
7 BCP number 5, for administering future offerings of
8 reuse assistance grants.

9 At the November 19th and 20th, 2002 meeting,
10 the Board adopted the scoring criteria and evaluation
11 process for evaluating the fiscal years 02-03 and 03-04
12 joint offering of the reuse assistance grant
13 applications.

14 The notice of funding availability was mailed
15 on November 26th, 2002 to over 5,000 interested parties
16 as well as made available on our website.

17 Staff received a total of 36 applications by
18 the due date. Eighteen grant proposals met the minimum
19 scoring requirement of 75 points.

20 Staff recommends funding fully six
21 applications -- sorry. Funding six applications fully
22 and one partially based on their passing score and
23 ranking, totalling \$250,000 from fiscal year 02-03
24 funds. Please refer to attachment four for a listing of
25 the recommended grant award recipients.

1 Staff also proposes that the Board direct staff
2 to return upon an allocation of fiscal year 03-04 funds
3 to secure approval for additional grant awards based on
4 the remaining applicant rankings.

5 I'm happy to identify and describe at this time
6 for the record the proposed recipients, or simply field
7 any questions that the committee members might have.

8 COMMITTEE CHAIR MEDINA: Thank you for your
9 presentation.

10 Board members any questions, comments?

11 Board Member Paparian.

12 COMMITTEE MEMBER PAPARIAN: I just want to make
13 sure I'm understanding the language in the resolution
14 about what happens in 03-04. So as I'm reading it, in
15 03-04 we haven't yet allocated money for this in 03-04

16 MS. WEIMER: Correct.

17 COMMITTEE MEMBER PAPARIAN: We might or might
18 not?

19 MS. WEIMER: That is correct.

20 MS. WOHL: Well let me interrupt, actually it's
21 BCP directed money for this project every year. So this
22 does not come up for reallocation or allocation, it's
23 designated for this purpose only, \$250,000 per year for
24 reuse grants.

25 COMMITTEE MEMBER PAPARIAN: Okay. So --

1 MS. WOHL: So you did not allocate it this year
2 either.

3 COMMITTEE MEMBER PAPARIAN: It's dependent on
4 legislative action then, that 03-04?

5 MS. WOHL: It was, what we're waiting for is
6 the signing of next year's budget, and then
7 automatically \$250,000 is earmarked for reuse grants.
8 And so what we're saying is we wouldn't move forward
9 until we knew we had a signed budget, and then we could
10 come forward with the remainder.

11 COMMITTEE MEMBER PAPARIAN: So when the budget
12 is signed, and assuming it has this 250,000, then the
13 program goes on auto pilot, we've already made the
14 decision about how those funds would be spent?

15 MS. WOHL: Right. What we tried to do is gain
16 some efficiencies by combining it into two years instead
17 of going out and use every year to get these same
18 applicants.

19 COMMITTEE MEMBER PAPARIAN: Okay. Thank you.

20 COMMITTEE MEMBER JONES: Mr. Chair.

21 COMMITTEE CHAIR MEDINA: Board Member Jones.

22 COMMITTEE MEMBER JONES: I'd like to move
23 adoption of Resolution 2003-249, consideration of awards
24 for a joint offering of the reuse assistance grants for
25 fiscal years 2002-2003 and 2003-2004.

1 COMMITTEE MEMBER WASHINGTON: Second.

2 MS. WEIMER: Thank you.

3 COMMITTEE CHAIR MEDINA: Thank you. Resolution
4 2003-249 has been moved by Board Member Jones, seconded
5 by Board member Washington.

6 Substitute the previous roll call.

7 And this will be placed on fiscal consent.

8 MS. WOHL: Okay. Agenda item G, which is Board
9 item 26, consideration of the scope of work and
10 contractor for the motion picture industry
11 sustainability contract IWMA --

12 (Thereupon there was a discussion off the
13 record.)

14 MS. SMITH: Agenda item G is consideration of
15 the scope of work and contractor for the motion picture
16 industry sustainability project.

17 In September and October funding was allocated
18 for this project, \$50,000 from the IWMA fund, and
19 \$100,000 from the used oil fund. The contractor that is
20 being proposed for this project is UCLA. This
21 university is in the middle of, located right in the
22 heart of the motion picture industry, and they have
23 several academic programs that specialize in developing
24 skills and services that serve the motion picture
25 industry.

1 There have been, we've had preliminary
2 meetings, Board Member Medina and our Chair, Linda
3 Moulton-Patterson, have been instrumental in promoting
4 this project as well. They were involved in preliminary
5 meetings with the California Film Commission and with
6 UCLA to gauge the interest and the need for the project,
7 and to help develop a workable and feasible scope of
8 work.

9 The scope of work before you emphasizes
10 developing a motion picture industry working group,
11 conducting surveys of the industry, developing a
12 criteria checklist and performance rating system. Also
13 developing case studies on the industry, and a proposed
14 green environmental management plan as a model for the
15 industry. And along with that will be outreach and
16 rolling all this back out to the industry and to the
17 public.

18 There is a strong emphasis in used oil
19 recycling and rerefined oil programs in the scope of
20 work and throughout the project. And we will be
21 featuring at least one case study that includes used oil
22 recycling and rerefined oil programs.

23 I'll be happy to answer any questions you may
24 have.

25 COMMITTEE CHAIR MEDINA: Thank you.

1 Board members, any questions?

2 COMMITTEE MEMBER PAPARIAN: Yes.

3 COMMITTEE CHAIR MEDINA: Board Member Paparian.

4 COMMITTEE MEMBER PAPARIAN: Thank you, Mr.

5 Chairman.

6 The used oil recycling component of this was

7 aimed at kind of fleet use of used oil.

8 MS. SMITH: Right.

9 COMMITTEE MEMBER PAPARIAN: And I think that's
10 a good thing, that's something we should very much
11 encourage. I think over time though what we ought to do
12 is, as we work with these sorts of fleets, is
13 incorporate some of our tire source reduction efforts as
14 well.

15 It's sort of a glaring omission to me if we're
16 trying to get fleets to use rerefined oil, yet we don't
17 talk to them about the efficiencies that are needed in
18 the tire area. And I know that's something that we'll
19 talk about that this afternoon in terms of the source
20 reduction efforts in tires. But the, I think that this
21 sort of emphasis that the used oil program has been
22 going in is something that perhaps the tire program
23 could utilize as well.

24 I had one other question on this. There have
25 been some groups in the past, in fact, I was involved in

1 some of these efforts at one point, that tried to look
2 at the motion picture industry not just as a business,
3 but as a way to convey information to the public through
4 the films that they produce.

5 Is there going to be any effort to try to,
6 you're nodding your head yes, to try to incorporate some
7 of these concepts into the films that they're producing?

8 MS. SMITH: Well we hope so, and that's part of
9 the reasons why we're working with UCLA because they
10 have, for instance, a School of Television, Film, and
11 Theater, as well as the Institute of the Environment,
12 and they have relationships already built with the
13 motion picture industry.

14 And we're hoping things as simple as, you know,
15 the Pepsi can you see in a movie, maybe having recycling
16 containers, somebody drinks that Pepsi and then tosses
17 it into a container. We know, we don't know exactly
18 where it will go.

19 We hope we might be able to get some of the
20 environmentally minded actors or actresses to come on
21 board with us in this.

22 We do have a form built in here, it's going to
23 be a meeting where we're hoping to draw interest from
24 Hollywood into that meeting as well. And we hope to do
25 those things, we'll see how it works out.

1 COMMITTEE MEMBER PAPARIAN: There was an
2 organization that helped environmental groups do this
3 sort of thing, I'll see if they still exist, and if they
4 do I'll pass that information on.

5 COMMITTEE CHAIR MEDINA: There still is, within
6 each major film studio they have various committees.
7 There is an existing committee on solid waste and the
8 environment, and in those committees they have
9 representatives that we will be working with.

10 We have also received encouragement and support
11 from Paramount Studios, I'd like to mention them.

12 And one other thing is that, we hope it will be
13 done in the future, is at the end of the film when they
14 list all the credits, the Waste Board would be listed
15 among the credits of the film.

16 And also that at some point there would be an
17 environmental award that will be presented, this was
18 suggested by someone in the industry, when the Oscars
19 are given that the award would be given regarding
20 environmental building --

21 (Thereupon there was a discussion off the
22 record.)

23 COMMITTEE MEMBER WASHINGTON: Mr. Chair, I
24 would like to make myself available to the studios. I'm
25 an avid Pepsi drinker, and come up and look at my

1 refrigerator in my office, I drink, you know, wild
2 cherry and all that stuff. So I'm certainly available
3 to help out on behalf of the Waste Board and hold a can
4 in a commercial.

5 MS. WOHL: A star is born.

6 COMMITTEE MEMBER WASHINGTON: Mr. Chair.

7 COMMITTEE CHAIR MEDINA: Board member
8 Washington.

9 COMMITTEE MEMBER WASHINGTON: I'd like to move
10 adoption of 2003-250, consideration of the scope of work
11 for the motion picture industry sustainable contract,
12 IWMA fund, fiscal year 2002-2003, contract concept
13 number 30, and use all funds, fiscal year 2002-'03,
14 contract concept number 0-39.

15 COMMITTEE CHAIR MEDINA: That's 2003-251.

16 COMMITTEE MEMBER WASHINGTON: Oh, there's two
17 of 'em, I'm sorry.

18 COMMITTEE CHAIR MEDINA: Yeah, 250 is correct.

19 COMMITTEE MEMBER JONES: I'll second.

20 COMMITTEE CHAIR MEDINA: Okay. Resolution
21 2003-250 has been moved by Board member Washington,
22 seconded by Board Member Jones.

23 I'll substitute the previous roll call.

24 And this can go on the consent calendar.

25 MS. WOHL: You notice there's two resolutions

1 with this item.

2 COMMITTEE CHAIR MEDINA: Yes.

3 MS. WOHL: Okay.

4 COMMITTEE MEMBER JONES: Mr. Chair.

5 COMMITTEE CHAIR MEDINA: Board Member Jones.

6 COMMITTEE MEMBER JONES: I'll move adoption of
7 Resolution 2003-251, consideration of the contractor for
8 the motion picture industry sustainability contract,
9 IWMA funds, fiscal year 2002-3, concept number 30, and
10 used oil 2002-2003 contract concept number 0-39, and I
11 guess it's UCLA.

12 COMMITTEE CHAIR MEDINA: Thank you.

13 COMMITTEE MEMBER JONES: Okay.

14 COMMITTEE CHAIR MEDINA: Resolution 2003-251
15 has been moved by Board member Jones, seconded by Board
16 member Washington.

17 And these will be placed on fiscal consent.

18 And I especially want to commend staff for
19 taking this project off the drawing board and moving it
20 forward in a relatively short time. So thank you to
21 staff, we appreciate it. Thank you all for working and
22 getting this off the ground.

23 MS. WOHL: Thank you.

24 COMMITTEE MEMBER PAPARIAN: Mr. Chairman.

25 COMMITTEE CHAIR MEDINA: Board Member Paparian.

1 COMMITTEE MEMBER PAPARIAN: Just following up
2 on my comments on the tire related aspects of this.
3 Perhaps if there's a small amount of money, twenty or
4 \$30,000 available at the reallocation time, this might
5 be something to consider augmenting in order to
6 incorporate tires into the fleet work that's done
7 through this project.

8 COMMITTEE CHAIR MEDINA: That's certainly an
9 excellent suggestion and one that will be followed up
10 on.

11 MS. WOHL: Okay. We're on agenda item, or
12 committee item H, agenda item 27. Consideration of
13 contractor for conversion technologies life cycle and
14 market impact assessment contract.

15 Fernando Berton will present.

16 MR. BERTON: Good morning, Board members.

17 As Patty said, this item requests Board
18 consideration on approval of contractor for the
19 conversion technologies life cycle and market impact
20 assessment contract.

21 At the January Board meeting the Board approved
22 the scope of work for this contract, and we issued the
23 RFP in late January of this year.

24 The primary objective of the scope of work is
25 to evaluate the life cycle environmental aspects and

1 market impacts related to potential development of
2 conversion technologies in California per Assembly Bill
3 2770.

4 At the time of the writing of this item we did
5 not have a recommendation for the contractor or proposed
6 funding because the submittals weren't due until March
7 21st.

8 We are now pleased to recommend Research
9 Triangle Institute as the contractor. We sent profiles
10 of the contracting team yesterday to the Board members.

11 With that, staff recommends approval of
12 Research Triangle Institute International as contractor
13 for the conversion technologies life cycle and market
14 impact assessment contract for the amount of \$824,188
15 from the consulting and professional services funds, and
16 adopt Resolution number 2003-252 which we would revise
17 before the Board meeting to reflect the name of the
18 contractor and the funding amount.

19 COMMITTEE CHAIR MEDINA: Could you restate the
20 amount, please?

21 MR. BERTON: \$824,188.

22 COMMITTEE CHAIR MEDINA: Thank you.

23 COMMITTEE MEMBER JONES: Mr. Chair.

24 COMMITTEE CHAIR MEDINA: Board Member Jones.

25 COMMITTEE MEMBER JONES: I'll move adoption of

1 Resolution 2003-252, consideration of the contractor for
2 commercial technologies life cycle and market impact
3 assessment contract, fiscal year 2002-3, AB 2770,
4 appropriation in the amount of \$824,180.

5 COMMITTEE MEMBER WASHINGTON: Second.

6 COMMITTEE CHAIR MEDINA: Resolution 2003-252
7 has been moved by Board Member Jones, seconded by Board
8 member Washington.

9 Substitute the previous roll call.

10 And this item will be placed on fiscal
11 consent.

12 MS. WOHL: Committee item I, which is Board
13 agenda item 28, is consideration of completion of
14 1997-'99 rigid plastic packaging container, RPPC
15 compliance agreements for the listed companies.

16 And Jan Howard has a couple of changes she'd
17 like to present.

18 MS. HOWARD: Good morning, Board members. I'd
19 like to update you on two companies, Daige Products,
20 Incorporated, and SKD Trading International.

21 Daige Products, as noticed, was recommended for
22 a public hearing as non-respondent. Subsequent to the
23 item being noticed, staff received documentation from
24 the company that the annual number of containers sold in
25 California for 2002 was 375, amounting to approximately

1 30 pounds of resin disposed in California landfills.

2 Staff believes Daige should be considered to
3 have a diminimus impact on California's waste stream,
4 the compliance agreement terminated, and take no further
5 action for compliance year 1997 through '99.

6 SKD Trading in its final report submitted
7 documentation that it does not sell product in regulated
8 RPPCs into California.

9 The glitter as labeled eight ounces is the
10 weight of the glitter, not the capacity of the
11 container. The container's volumetric capacity is less
12 than eight ounces.

13 Staff determined that SKD is not regulated,
14 the compliance agreement should be terminated, and no
15 further action taken regarding 1997 through 1999
16 compliance year.

17 With that, staff recommends the Board adopt
18 resolutions 2003-253 through 255, 2003-256 as revised,
19 and 2003-257 through 270.

20 MS. WOHL: Can I also bring your attention to
21 the fact that this is the first time we will be putting
22 a company forward for public hearing which is
23 Motsenbocker's Lift Off.

24 COMMITTEE MEMBER JONES: Mr. Chair.

25 COMMITTEE CHAIR MEDINA: Board Member Jones.

1 COMMITTEE MEMBER JONES: And that hearing is
2 going to be here?

3 MS. WOHL: Actually the Board wanted the ALJ to
4 do those hearings.

5 COMMITTEE MEMBER JONES: The ALJ does it
6 directly.

7 MS. WOHL: So this will be the first one.
8 We'll obviously let you know so you could attend if you
9 were interested. I think I've had some Board members
10 indicate that that would be of interest to them, at
11 least one of these first couple. So we'll let you know
12 when that is.

13 COMMITTEE MEMBER JONES: Mr. Chair.

14 COMMITTEE CHAIR MEDINA: Board Member Jones.

15 COMMITTEE MEMBER JONES: I'll move adoption of
16 Resolution 2003-253 to 255, 256 revised, and 2003-257
17 through 270, consideration of completion of the 1997
18 through '99 rigid plastic packaging container compliance
19 agreements for those listed companies.

20 COMMITTEE MEMBER PAPARIAN: Second.

21 COMMITTEE CHAIR MEDINA: Board Member Jones has
22 moved and it's been seconded by Board member Paparian,
23 Resolutions 2003-253 through 2003-255, Resolution
24 2003-256 revised, Resolutions 2003-257 through
25 Resolution 2003-270.

1 And substitute the previous roll call.

2 MS. WOHL: Legal wanted me to clarify for you
3 that what you will get is a proposed decision from that
4 ALJ that you will then get to vote on. So it's just
5 that you're going to have them do the public hearing
6 part of that.

7 COMMITTEE CHAIR MEDINA: Right.

8 COMMITTEE MEMBER PAPARIAN: What kind of
9 timeframe do you anticipate on that?

10 MS. WOHL: Do you know, Kathryn, how quickly we
11 can get this going, get this done?

12 MS. CARTER: We can actually schedule the
13 hearing within the next couple of months, so my guess is
14 it will be about four months that you'll hear a
15 decision.

16 MS. WOHL: Okay. Agenda or committee item J,
17 Board item 29, consideration of contractor for the post
18 consumer resin, PCR, and testing protocol contract, IWMA
19 fund, fiscal year 2002-2003, contract concept number 15.

20 And Edgar Rojas will present.

21 MR. ROJAS: Good morning, Chairman Medina and
22 members.

23 Last Friday, March 14 was the last day for the
24 submittal of proposals, but no bids were received.

25 Therefore, staff recommends option three for

1 the Board which is to take no action and provide future
2 direction.

3 The Board could direct the staff to initiate an
4 interagency agreement with any of the California
5 universities specializing in plastics.

6 Based on preliminary conversations with
7 university researchers who have expressed interest in
8 this project, staff is requesting to increase the money
9 for this contract by using some additional money from
10 the RPPC, BCP 15. We would bring back a proposed
11 interagency agreement to the Board in May or June.

12 That completes my presentation.

13 MS. WOHL: Again this is similar. We have BCP
14 dollars allocated to the rigid plastic packaging
15 container program specifically for that purpose to help
16 with marketing and to fund the hearings and a variety of
17 things of that sort. Because we only had one hearing
18 thus far, we do have some dollars available.

19 We found that this contract was too low an
20 amount for anyone to bid on. We've heard anywhere
21 between fifty and a hundred thousand being a more
22 appropriate dollar figure.

23 What we'd like to do is spend some time looking
24 at that, bring another item back to you with an
25 interagency agreement for an amount, and we would fund

1 that through that mechanism.

2 COMMITTEE CHAIR MEDINA: Very good. Before we
3 have, we take any action on this, we do have a speaker
4 and that's Laurie Hansen.

5 MS. HANSEN: Good morning, I'm Laurie Hansen,
6 and I'm representing today the California Film Extruders
7 and Converters Association, and we have a number of
8 trash bag manufacturers that are members in this
9 association.

10 And I apologize for the lateness of giving
11 these comments to Edgar, I made the assumption at the
12 interested parties meeting last Thursday that everything
13 was a done deal, and found out today there were no
14 bidders.

15 We would like to work with the staff to ensure
16 that the end product manufacturers are part of the
17 process in developing these quality assurance standards.
18 Because as you know, when the end product manufacturer
19 has their specifications, right now a number of them are
20 having difficulty getting the post consumer resin that
21 meets their specifications. We would like to work with
22 the contractor and the university and the staff to make
23 the specifications available so that there is a greater
24 ability to get the necessary amount of post consumer
25 resin we need to be in compliance with state laws.

1 So I think that this is an opportunity for both
2 the Board to increase the amount of post consumer resin
3 available, and for the manufacturers to increase their
4 use and amount of post consumer resin.

5 Thanks.

6 COMMITTEE CHAIR MEDINA: Thank you.

7 Ms. Wohl.

8 MS. WOHL: As we mentioned to Laurie at the
9 interested parties meeting, I think that's our
10 intention. We need to find out what kind of quality
11 they need in order to develop a protocol that works for
12 them. So yes, we will definitely include them, and we
13 can spell that out more particularly in the next item.

14 So with that, we're really just looking just to
15 get your direction in that request.

16 COMMITTEE CHAIR MEDINA: Okay, Board members?

17 Board Member Paparian.

18 COMMITTEE MEMBER PAPARIAN: Yeah, sounds good
19 to me. The only suggestion I'd make is to, if you
20 haven't already, check with Howard Levenson, who I
21 worked with on this idea of the research relationship
22 with the University of California, and I think he's had
23 some contacts with some folks there that might or might
24 not be transferrable to this project. But just
25 doublechecking with him, showing him this thing.

1 MS. WOHL: Sure.

2 COMMITTEE MEMBER PAPARIAN: See whether there's
3 any potential there.

4 MS. WOHL: Okay.

5 COMMITTEE CHAIR MEDINA: Okay. Then we'll be
6 accepting the staff recommendation and take no action at
7 this time on this item.

8 MS. WOHL: Right.

9 COMMITTEE CHAIR MEDINA: Very good. Next item,
10 please.

11 MS. WOHL: So agenda item K, Board item 30.
12 Consideration of grant award to the California Youth
13 Authority for recycled rubber products.

14 And Kristen McDonald will present.

15 MS. MCDONALD: Good morning, Chairman Medina
16 and committee members. My name is Kristen McDonald with
17 the sustainable building program.

18 This item is for consideration of a grant award
19 to the California Youth Authority for recycled rubber
20 products in the amount of \$150,000.

21 At the March, 2001 Board meeting, the Board
22 adopted the current five year plan which allocated
23 \$400,000 to green building activities for the current
24 fiscal year. To date, 250,000 of those funds have been
25 allocated to various green building activities

1 throughout this fiscal year.

2 This is a direct non-competitive grant to the
3 California Youth Authority to advance the use and
4 acceptance of recycled content, California tire Derived
5 products at various youth correctional facilities
6 throughout the state.

7 The current funding request will benefit five
8 California institutions with the incorporation of
9 resilient rubberized flooring and anti-fatigue matting
10 manufactured from a hundred percent California recycled
11 tires.

12 These products will be used in dayrooms,
13 children's play areas, in the visiting rooms, hallways,
14 youth counselor stations, and control centers.

15 Youth Authority will also provide evaluation
16 data to the Board as to how the products perform, their
17 installation and maintenance, and a discussion of
18 successes, obstacles, and lessons learned at the various
19 institutions.

20 Sustainable building staff believes that
21 through these pilot projects with the Youth Authority,
22 there's a lot of potential for incorporation of
23 resilient flooring and anti-fatigue mats throughout the
24 entire correctional system which can result in a
25 significant amount of waste tires being diverted from

1 California's waste stream.

2 If the Board approves funding for this project,
3 it will exhaust the remainder of our current year
4 funding allocation.

5 Staff recommends the Board approve option one
6 and adopt Resolution 2003-272.

7 Thank you.

8 COMMITTEE CHAIR MEDINA: Board Member Jones.

9 COMMITTEE MEMBER JONES: Just a question. The
10 CYA in their relationship with the regular, I mean with
11 the adult corrections, is there going to be discussion
12 prior to spec-ing this material at these CYA's that it's
13 going to be convertible over to the more high risk
14 facilities?

15 Because if we, if we spend our money to make
16 something that works at CYA and it doesn't cover the
17 kind of concerns that the corrections folks would have
18 at the prisons, we've wasted 150 grand.

19 MS. MCDONALD: My understanding is there would
20 be these discussions. If these materials perform the
21 way we anticipate and that they anticipate, there will
22 be some write-ups in correctional facility articles.

23 COMMITTEE MEMBER JONES: But how about before?
24 I mean if the corrections folks see how this is going to
25 be put in place and everything ahead of time, there may

1 be issues they have with the adult population that CYA
2 would not be necessarily aware of.

3 So it would seem to me like they'd have to be
4 involved at some point early on.

5 MS. HANSEN: Right, we can have, we can --

6 COMMITTEE MEMBER JONES: At least for their
7 ideas, you know, at least for some input as to what
8 could cause them problems if it was transferred.

9 MS. MCDONALD: Right. And I can absolutely
10 have our contacts at CYA do that. We haven't had those
11 discussions so far, but we can.

12 COMMITTEE MEMBER JONES: Does that make sense?

13 COMMITTEE MEMBER PAPARIAN: I mean if you're,
14 it sounds like you're aware of conditions there that do
15 sound important. And I mean, I wonder if it might be
16 worth one of the Board members or yourself, you
17 obviously know a lot about this, having an initial
18 meeting with the corrections folks and the Youth
19 Authority folks, maybe bring in a correction person and
20 kind of buy them in early into the process.

21 COMMITTEE MEMBER JONES: I mean I'll make
22 myself available, but I think that our staff and the
23 chair can deal with it. But I think it's just a way to
24 transfer.

25 Because the types of things that you can do in

1 a CYA versus what you do in a full prison are like night
2 and day. And it would be a shame to put this down and
3 find out it could be used as a weapon if it isn't placed
4 a certain way. And I just think we need to be aware of
5 that, otherwise you can't transfer.

6 So if we could include that, Mr. Chair. If
7 members feel comfortable with that to just kind of
8 include that direction, I think it might open up the
9 marketplace a little more.

10 COMMITTEE CHAIR MEDINA: Very good.

11 MS. MCDONALD: Absolutely.

12 COMMITTEE MEMBER JONES: Mr. Chair.

13 COMMITTEE CHAIR MEDINA: Board Member Jones.

14 COMMITTEE MEMBER JONES: I'd like to move
15 adoption of Resolution 2003-272, consideration of the
16 grant award to the California Youth Authority for
17 recycled rubber products, fiscal year 2002-3, tire
18 recycling management fund, to include that direction.

19 COMMITTEE MEMBER WASHINGTON: Second.

20 COMMITTEE CHAIR MEDINA: Resolution 2003-272
21 has been moved by Board Member Jones, seconded by Board
22 member Washington with direction in regard to CYA and
23 the corrections.

24 And so substitute the previous roll call on
25 that.

1 And this can be fiscal consent.

2 MS. WOHL: Okay. And our last item, committee
3 item L, Board item 31, consideration of adoption of
4 emergency regulations regarding assessment of
5 administrative civil penalties against product
6 manufacturers for non-compliance with the rigid plastic
7 packaging container, RPPC law.

8 And Bill Orr and Marie McLean will present.

9 MR. ORR: Good morning, Mr. Chair and committee
10 members. My name is Bill Orr, the manager of the
11 Recycling Technologies Branch.

12 I'd like to give a little bit of background and
13 context before I turn it over to Marie McLean who will
14 go over what we're proposing through the emergency
15 regulations.

16 As you may recall, the RPPC, rigid plastic
17 packaging container law, initiated certification for
18 compliance years 1997 through 1999 over two years ago.
19 The Board adopted an enforcement strategy for that
20 certification in February of 2001.

21 Since then, we've entered into 144 compliance
22 agreements, which are coming back in installments each
23 month, as the one that was acted on earlier this meeting
24 typifies.

25 The Board has also considered petitions for

1 special consideration of small companies, either in
2 terms of their size or volume of containers in October.

3 Why we're here today is, as Patty mentioned a
4 few minutes ago, we're in the process of getting ready
5 to schedule public hearings before an administrative law
6 judge for the certification. And in addition to that,
7 for the companies that were determined not to be small,
8 we're looking for these penalty criteria to be used in
9 the context of settlement negotiations with those
10 companies.

11 Staff believes that the penalty criteria need
12 to be more specific than they were previously because
13 the hearings will be presided over by the administrative
14 law judge. And really what we need to include are the
15 elements that constitute each violation under the law,
16 and then the penalty or range of penalties for each
17 violation.

18 So with that I'm going to turn it over to Marie
19 McLean, and she'll actually walk you through what we've
20 come up with.

21 COMMITTEE CHAIR MEDINA: Very good.

22 MS. MCLEAN: Good morning, Board members. My
23 name is Marie McLean, And I will continue, as Bill said,
24 with the rest of the briefing.

25 We've based our penalty structure on the goals

1 of fairness, timeliness, deterrence, and transparency.

2 Our penalty structure contains four
3 violations. Three are Board defined based on time or
4 degree, with a maximum \$50,000 penalty and a total of
5 \$100,000 penalty per year. They're based on the degree
6 of non-compliance, late certification, incomplete or
7 inaccurate certification.

8 And then the fourth penalty is required by
9 statute, which consists of fraud with a maximum \$100,000
10 penalty.

11 Our first violation is designed to provide
12 credit for compliance in four areas. The percent of
13 post consumer resin, percent of source reduction, the
14 times container's reused, or the times container's
15 refilled.

16 This is an example of the credit that a
17 manufacturer would get for one product, and his credit
18 would be for the percent of post consumer resin.

19 So, and this correlates with the chart that
20 will be in our emergency regulations.

21 For a container with twelve percent post
22 consumer resin, the manufacturer would get twelve
23 points, his penalty would be \$28,400. That penalty is
24 figured by \$15,000 minus 1,800 times the number of
25 points. So if you do that, you come up with a penalty

1 of \$28,400.

2 For two products with weighted average credit
3 four percent post consumer resin and source reduction, a
4 manufacturer would get 24 points for a container with
5 post consumer resin. With 24 percent post consumer
6 resin you get 24 points. And then for laundry
7 detergent, with source reducing you would get 9.6 which
8 equates to 24 points, so you get a total weighted
9 average points of 24 points, and his total penalty would
10 be \$6,800.

11 We've had many comments from interested
12 parties. Generally we've had general agreement on
13 definitions of violations, but they've expressed
14 concerns about the nature of the emergency, the minimum
15 fines, our notification process, and the fact that they
16 didn't believe that our emergency regulations addressed
17 the real problems with the law.

18 We received letters in support of the, of this
19 agenda item from Californians Against Waste, and
20 received letters in opposition from the Grocery
21 Manufacturers of America, the Soap and Detergent
22 Association, and SC Johnson.

23 We've made various changes based on the
24 comments.

25 In violation two we've reduced the penalties to

1 \$1,000, \$5,000, and up to \$50,000.

2 We've changed the title of table to, "Days
3 after certification package received pursuant to Section
4 17946 (e)." We've added, "Considered non-responsive" at
5 the end of the second column.

6 We've deleted violation three.

7 For violation four, for the California Code of
8 Regulation, Section 17946, we've modified section E to
9 extend from 60 to 90 days the time to submit a
10 certification.

11 We've added the difficulty of obtaining
12 container information as a basis for requesting an
13 extension.

14 And in section F we've added information to
15 formalize the Board's procedure and timelines for
16 notification of the receipt of the certification, review
17 for completeness, and any additional information or
18 documentation needed.

19 We've also formalized thirty day procedures for
20 manufacturers to submit required information or
21 documentation.

22 And on violation five we've inserted the words,
23 "for fraud."

24 The options we're presenting to you today is;

25 Number one, approve the penalty criteria as

1 proposed for assessing penalties, and adopt them as
2 emergency regulations.

3 Number two, to approve the penalty criteria
4 with specified changes and adopt them as emergency
5 regulations.

6 Option three, direct staff to use existing
7 penalty criteria approved by the Board on October 20th,
8 1999.

9 Or option four, approve the general penalty
10 criteria with specific changes to modify existing
11 criteria or add new ones.

12 Or number five, provide other direction to
13 staff.

14 Our recommendation to you is that you approve
15 option two and adopt the Resolution 2003-273 which has
16 been revised to reflect the noted changes.

17 Thank you.

18 COMMITTEE CHAIR MEDINA: Thank you.

19 Board members, any questions in regard to this
20 item?

21 We do have two speakers before we move on the
22 resolution. So if there's no questions or comments in
23 regard to this, then I will call on the speakers in the
24 order that they handed in their slips.

25 George Larson, American Plastics Council, and

1 he will be followed by Randy Pollack of the Soap and
2 Detergent Association.

3 MR. LARSON: Thank you, Chairman Medina and
4 Board members.

5 I'd first like to compliment your staff on the
6 tremendous work they did in the last week. We had a
7 situation where there was some very significant concern
8 on behalf of the regulated community on the structure of
9 the fines, and your staff were most responsive and
10 receptive to hearing those concerns.

11 And I would say for the large part those
12 concerns have been addressed such that, on behalf of
13 American Plastics Council I can say we can support going
14 to the regulatory phase under the emergency regulations
15 process.

16 I would also like to state that we are in
17 support of where these regulations and your staff and
18 this Board seek to go. In other words, you need a more
19 streamlined mechanism to be able to assess civil
20 penalties and fines for companies that are in flagrant
21 disregard of this law. That's only fair in the sense
22 that the large majority, the vast majority of companies
23 are making all the good faith efforts that they can to
24 comply with the law. And to level the playing field in
25 recognition of those who try to comply, we support a

1 mechanism that will bring non-compliant companies to the
2 table.

3 I would like to defer my additional comments to
4 Mr. Pollack on, as it relates to one issue, and that is
5 a mechanism that would enable a, what used to be called
6 a compliance type order process, to be incorporated into
7 the first set of violations.

8 But rather than get into the detail, I'll let
9 Mr. Randy Pollack make those comments.

10 But in advance of his comments I would like to
11 say that APC is in support of what he's trying to
12 achieve.

13 With that, I'd take any questions.

14 COMMITTEE CHAIR MEDINA: Okay. If there's no
15 questions, we have the next speaker, please.

16 MR. POLLACK: Thank you, Mr. Chairman, members
17 of the Board. Randy Pollack on behalf of the Soap and
18 Detergent Association.

19 I echo Mr. Larsen's comment that we'd like to
20 thank the staff for all their efforts in redrafting
21 these regulations and meeting with us over the past
22 couple of weeks. And I'd also like to thank the Board
23 for postponing this item for an additional month.

24 I just have two issues of concern which I think
25 could be resolved.

1 The first one is under violation one. If you'd
2 look at your chart, which is the fourth page, which
3 under description of violation states, "Product
4 manufacturer did not comply with container requirements.
5 Penalty determined by degree of non-compliance." And
6 the penalty goes from 5,000 to \$50,000.

7 We have no problem with the penalty structure,
8 what we'd like to see included in here is some sort of
9 reference to a compliance agreement.

10 The Board for the past couple of years has
11 decided that the best way to get people in compliance
12 with California law is to first give them the
13 opportunity of signing a compliance agreement. And that
14 is not reflected within these regulations.

15 So what we would like to see under that
16 violation one is that they went to a compliance
17 agreement, they did not complete that or they violated
18 that compliance agreement, and then move to the penalty
19 phase.

20 And this is something that I believe will
21 probably save the Board money because I believe the way
22 it's written right now is if you look at it, it could
23 immediately go over to an administrative law judge for a
24 hearing if the containers are not in compliance.

25 Additionally, my second issue, which is a very

1 minor one, is on the, under section F which talks about
2 what the Administrative Law Judge or the Board could
3 consider as evidence. I would just suggest that we add
4 at the end of that sentence where it ends, it says,
5 "Provided by the product manufacturer," and then add,
6 "But not limited to."

7 I believe the Administrative Law Judge and the
8 Board should have the opportunity of considering other
9 factors that may come into play. And so it will not
10 limit your ability to hear those issues and decide the
11 merits or not the merits of those issues and implement a
12 fine.

13 Thank you very much.

14 COMMITTEE CHAIR MEDINA: Thank you, Mr.
15 Pollack.

16 Any reaction in regard to the compliance
17 agreement or the "but not limited to" wording?

18 COMMITTEE MEMBER JONES: I don't have a problem
19 with it.

20 MR. ORR: I'm taking a quick look at where the
21 second one is. Let's see. So that would be under
22 subsection F that list of factors, mitigating factors
23 that could be considered?

24 MR. POLLACK: Yes.

25 MR. ORR: Yeah, I don't have a problem with

1 adding a phrase in, "not limited to."

2 CHIEF LEGAL COUNSEL TOBIAS: Chairman Medina,
3 Kathryn Tobias. I guess I don't know if I have a
4 problem with that or not, but I think that those are, I
5 think staff has tried to come up with the factors that
6 we would usually look at in those. And are there, is
7 there an example of what else is not in there?

8 MR. POLLACK: I think there just might be a
9 variety of cases that the Board may hear, and if you're
10 just looking at these factors, they wouldn't be able to
11 take those into consideration.

12 You know, maybe it's the size of the company,
13 maybe the person is going along and trying to get into
14 compliance and has been doing new technology. I mean
15 what exactly is the meaning of technological feasibility
16 of compliance? I think there could be interpretations
17 like that also.

18 I think this is giving just more flexibility to
19 the Board. Of course, these are going to be the core
20 categories that they're going to be looking at, but I
21 think they should have the ability, if other issues pop
22 up, that you can consider those.

23 CHIEF LEGAL COUNSEL TOBIAS: Well, I guess I'm
24 not, I think at this late date, you know, we'd like to
25 get these adopted, but I'm not usually too supportive of

1 including but not limited to, I think it opens the door
2 completely.

3 I think the examples that Mr. Pollack just gave
4 are both included in their history of previous
5 compliance, the size of the company.

6 And as it states here, the burden is on the
7 manufacturer to bring it forward. I'm not hugely
8 supportive of it, but if the Board feels otherwise I
9 don't want to hold up the regulations on that.

10 COMMITTEE CHAIR MEDINA: Okay. Thank you very
11 much for your advice regarding that.

12 Board Member Jones.

13 COMMITTEE MEMBER JONES: I mean we're doing
14 these as emergency regulations which means that the
15 normal 45 day process has been abandoned, so I got a
16 little bit of a problem with when we do have public
17 input not taking it and just dismissing it, or not
18 dismissing it but saying that they're, I don't want to
19 open the door.

20 If we had the normal 45 day process they could
21 be further, I mean there may be further evidence as to
22 that. So I think there's got to be a little give and
23 take here. You know, I mean we want to get these
24 through right away, we ought to not think that these
25 five categories are the only five things that can come

1 up.

2 CHIEF LEGAL COUNSEL TOBIAS: I think that's a
3 good point. I think that's exactly why we do the
4 regulations following the emergency standards.

5 So I'll just reserve my right to bring it up at
6 the --

7 COMMITTEE MEMBER JONES: 45.

8 CHIEF LEGAL COUNSEL TOBIAS: -- at the regular,
9 when we adopt the regular regulations. But I'm hard
10 pressed to think of what else might be in there, and so
11 I think that would be fine.

12 COMMITTEE CHAIR MEDINA: Board Member Paparian.

13 COMMITTEE MEMBER PAPARIAN: I just want to make
14 sure I'm understanding this. I'll wait for legal
15 counsel.

16 I just want to make sure I'm understanding
17 what's being suggested here with this item. If there's
18 a, there's formulas that lead you to an amount for a
19 penalty, and then these five things allow the judge to
20 alter that penalty?

21 CHIEF LEGAL COUNSEL TOBIAS: To mitigate the
22 amount if they so find it.

23 COMMITTEE MEMBER PAPARIAN: So the judge comes
24 up with, say, \$10,000 using all the formulas and stuff,
25 and then they can consider some other things to make

1 that penalty less than what the formula comes up with?

2 CHIEF LEGAL COUNSEL TOBIAS: Right. The
3 manufacturer can supply evidence to show that for some
4 reason, because it's a tiny company or I don't think it
5 would be because it's a huge company but, you know,
6 whether they've cooperated. They're really just
7 mitigation factors.

8 COMMITTEE MEMBER PAPARIAN: And that, in that
9 case I would be inclined towards, you know, being as
10 specific as possible so that, you know, they can't throw
11 in the kitchen sink in trying to get out from the fine.

12 So if there's other specific factors I think we
13 should put them in here and list 'em, so I tend
14 towards --

15 CHIEF LEGAL COUNSEL TOBIAS: But it also says,
16 "may consider." It says "The Administrative Law Judge
17 or Board may consider evidence of the following:"

18 So I'm fine either way because I'll raise it
19 again if I need to, if there's, you know -- I think it
20 would have been good to come up with the other factors
21 and add them as opposed to just say including but not
22 limited to. But I think a good point was made about the
23 45 or the emergency regs.

24 And one suggestion staff is making is that we
25 could add, instead of "including but not limited to," to

1 include, "or other factors as approved by the Board."

2 But I think, as I say, I can live with it the
3 way it is, and then we'll come back when we do the
4 regulations and discuss it again. We have to start
5 those regulations right after the emergency packet is
6 approved anyway.

7 COMMITTEE CHAIR MEDINA: We have two issues on
8 the floor. One is in regard to the compliance
9 agreement. Any reaction to the suggesting the
10 compliance agreement be included?

11 COMMITTEE MEMBER JONES: I just have a
12 question.

13 MR. ORR: Yeah.

14 COMMITTEE MEMBER JONES: Isn't that normally --

15 MR. ORR: Yeah, that's our normal procedure.
16 What we've attempted to do here is to provide some
17 additional clarifying points where things were not maybe
18 part of the process that we've been using. That's part
19 of the compliance enforcement process that I described
20 that was adopted by the Board in February of 2001.

21 If the Board wants for us to include specific
22 language regarding the compliance agreement, we can do
23 that, but we can also provide assurance that that is
24 part of our standard procedure.

25 So it's up to your pleasure.

1 COMMITTEE MEMBER JONES: Mr. Chair.

2 COMMITTEE CHAIR MEDINA: Board Member Jones.

3 COMMITTEE MEMBER JONES: You know, I think if
4 it's already there, which it is, we ought to just leave
5 it. I mean we don't lose the ability. This is if that
6 goes away, so I don't think that needs to be in there.

7 But I can see an awful lot of other things
8 that, you know, I don't know what that, what was the
9 language considered on the other one.

10 MS. WOHL: Not limited to.

11 COMMITTEE MEMBER JONES: Not limited to.

12 COMMITTEE CHAIR MEDINA: I think that in regard
13 to the remarks made by counsel, I think that, "or other
14 factors as approved by Board" would cover it.

15 COMMITTEE MEMBER JONES: So do we have to
16 approve 'em before they offer 'em into testimony?

17 CHIEF LEGAL COUNSEL TOBIAS: I think I'm okay
18 with "including but not limited to" as opposed to "if
19 it's approved by the Board."

20 I think this is going to get very confusing.
21 If it's approved by the Board after the Administrative
22 Law Judge has acted, I think it might just be better to
23 leave it included if you want to leave it open, it would
24 be better with the "included but not limited to," and
25 then we can see during the process whether we come up

1 with other, we're going to start these hearings so we'll
2 see whether we need anything else. By the time the
3 regulations come in I think we'll have enough to
4 evidence to see whether we need it or not.

5 COMMITTEE CHAIR MEDINA: If counsel doesn't
6 have any objection to "but not limited to," then we'll
7 go ahead.

8 So can we have a motion?

9 COMMITTEE MEMBER JONES: Mr. Chair.

10 COMMITTEE CHAIR MEDINA: Board Member Jones.

11 COMMITTEE MEMBER JONES: I'm move adoption of
12 Resolution 2002-273, consideration of adoption of the
13 emergency regulations regarding the assessment of
14 administrative civil penalties against product
15 manufacturers for non-compliance with the rigid plastic
16 packaging container, RPPC law, to include, revised to
17 include that language about "not limited to."

18 COMMITTEE CHAIR MEDINA: Is there a second?

19 COMMITTEE MEMBER WASHINGTON: Before I second
20 it, this is under option two that the staff
21 recommended?

22 MS. WOHL: Right, option two, just they're
23 adding one more direction, one more change.

24 COMMITTEE MEMBER WASHINGTON: Second.

25 COMMITTEE CHAIR MEDINA: Okay. Resolution

1 2002-273 has been moved by Board Member Jones, seconded
2 by Board member Washington with the appropriate
3 language.

4 Substitute the previous roll call.

5 With that, we will be taking a ten minute
6 break.

7 MS. WOHL: We made our timeframe even with the
8 fire alarm.

9 COMMITTEE CHAIR MEDINA: Upon return, upon
10 return we will proceed up until, up through item T. If
11 we, I know that some Board members have commitments so
12 we have to be out of here by a quarter to twelve.

13 If we finish, upon finishing item T then we
14 will break for lunch and return at 1:00 o'clock for the
15 remaining two items, U and V.

16 So at this point we're taking a ten minute
17 break.

18 (Thereupon there was a brief recess.)

19 COMMITTEE CHAIR MEDINA: This meeting is called
20 to order.

21 Board members, ex-parte?

22 COMMITTEE MEMBER JONES: Just John Cupps on
23 general AB 939 stuff.

24 COMMITTEE CHAIR MEDINA: Board Member Paparian.

25 COMMITTEE MEMBER PAPARIAN: None.

1 COMMITTEE CHAIR MEDINA: I have John Cupps just
2 meet and greet.

3 Board member Washington, any ex-partes?

4 COMMITTEE MEMBER WASHINGTON: Julie Nauman. I
5 have none.

6 COMMITTEE CHAIR MEDINA: Okay. With that,
7 we'll move onto Special Waste, Deputy Director's report,
8 Mr. Lee.

9 MR. LEE: Thank you, Chairman Medina, committee
10 members. I'll try to follow up Deputy Director's Wohl's
11 good example.

12 To that end, there's only one item I want to
13 bring to your attention with regards to the Deputy
14 Director report.

15 On March 11th an article described some piles
16 of waste tires in the Canyon Lake area of Western
17 Riverside County.

18 Our field staff have located the tires and
19 determined that about 3,800 tires are located on a
20 seventy acre parcel, while several small piles of less
21 than 500 tires each are located on other parcels.

22 Staff will be issuing a letter of violation
23 this week to the owner of the seventy acre parcel, thus
24 initiating the Board's enforcement process.

25 There is a few pictures which I've left with

1 the Chair which you might want to just pass among
2 yourselves to get some idea of the site in question.

3 That's the only thing I want to bring to the
4 committee's attention as part of the Deputy Director's
5 report, and I'm prepared to move into the agenda.

6 COMMITTEE CHAIR MEDINA: If you would, please,
7 move on to the next item.

8 MR. LEE: Thank you, Chairman Medina.

9 The first item for the committee's
10 consideration is Board item 33, committee item N,
11 consideration of California State University of Long
12 Beach as contractor for the fleet manager training
13 contract, fiscal year 2002-2003, used oil fund contract
14 concept number 0-41.

15 James Herota will make the staff presentation.

16 COMMITTEE MEMBER WASHINGTON: Mr. Chair.

17 COMMITTEE CHAIR MEDINA: Chairman Washington.

18 COMMITTEE MEMBER WASHINGTON: I'd like to move
19 adoption of Resolution 2003-232 as revised,
20 consideration of California State University Long Beach
21 as contractor for the fleet manager training contract
22 for the year 2002-2003, used oil fund contract concept
23 number 0-41.

24 COMMITTEE MEMBER JONES: Second.

25 COMMITTEE CHAIR MEDINA: Resolution revised

1 2003-232 has been moved by Board member Washington,
2 seconded by Board Member Jones.

3 Board Member Paparian, you had a comment
4 regarding this item?

5 COMMITTEE MEMBER PAPARIAN: Yes, I did. I
6 think this is a very good program, it's the sort of
7 thing that we ought to also apply to tires. I think
8 we've lost some of the funding that we could have used
9 for the tire program this coming fiscal year for this,
10 but hopefully we'll be able to restore that at some
11 point in our five year tire plan process.

12 But I think that this fleet manager training
13 stuff is very important. And as we go forward in doing
14 it with used oil, we ought to simultaneously incorporate
15 tires whenever we can since it's the same sort of
16 audience talking about the same sort of things.

17 COMMITTEE CHAIR MEDINA: Very good. Thank you,
18 Board Member Paparian.

19 Resolution revised 2003-232 has been moved and
20 seconded.

21 Substitute the previous roll call.

22 And this will go on fiscal consent.

23 COMMITTEE MEMBER JONES: Mr. Chair.

24 COMMITTEE CHAIR MEDINA: Board Member Jones.

25 COMMITTEE MEMBER JONES: I think that -- two

1 things. We talked about it when we heard this item the
2 first time, to make sure that we had some large fleets
3 that used rerefined oil to be included, because folks
4 that have that kind of an asset that are worried need to
5 make sure that big companies are doing that.

6 And then as a manager of about 1,800 vehicles,
7 most fleets we use recap truck tires, so I think it's an
8 easy one to do as far as source reduction, because I
9 don't know of any fleets in the State of California that
10 don't run recaps to take advantage of their casings and
11 the lower price.

12 So it's an easy one.

13 COMMITTEE CHAIR MEDINA: Very good. Next item,
14 please.

15 MR. LEE: Board item 34, committee item O is
16 consideration of the grant awards for the used oil
17 recycling non-profit grant program. This cycle is for
18 fiscal year 2002-2003.

19 Darren Okimoto will make this presentation.

20 MR. OKIMOTO: Good afternoon, Chairman Medina
21 and committee members. My name is Darren Okimoto, I am
22 a grant manager in the Used Oil and Household Hazardous
23 Waste Branch.

24 I will present item O, consideration of the
25 grant award for the used oil recycling non-profit grant

1 program for fiscal year 2002-2003.

2 The used oil non-profit grants are awarded on a
3 competitive basis for local non-profit organizations for
4 the establishment of new programs that address the
5 proper management of used oil. The applications were
6 scored by staff using the criteria and evaluation
7 process approved by the Board at the October meeting.

8 The program's priorities are use of social
9 marketing techniques to replace or supplement
10 traditional media based publicity and education methods
11 to promote collection of used oil and/or filters.

12 Programs targeting an underserved population.

13 New programs or expansion of existing programs
14 to include the collection of used oil and oil filters
15 from boaters, agricultural sources, and storm water.

16 New programs or expansion of existing programs
17 to include purchasing rerefined oil, and provide for
18 continued and sustained rerefined oil availability in a
19 target area after the grant period.

20 And finally, applicants that did not receive a
21 used oil non-profit grant during the last cycle.

22 There are \$3.5 million available for this round
23 of used oil non-profit grants. Individual applicants
24 could request up to \$200,000, and regional applicants
25 could request up to \$300,000.

1 Seventeen applications were received. 53
2 percent of the applications came from Northern
3 California non-profit organizations, and 47 percent of
4 the applicants received were from Southern California.

5 The Board's grant program did enact a
6 geographic provision for these grants, 39 percent to
7 projects submitted by Northern California applicants,
8 and 61 percent to projects submitted by Southern
9 California applicants.

10 However, at its October, 2002 meeting, due to
11 the fact that this is a small grant program and the
12 Board is looking to fund the best programs, the Board
13 did not mandate a geographic split for this granted
14 cycle.

15 Twelve applications received passing scores and
16 are being recommended for funding. A list is included
17 in your packet on page two of the resolution.

18 As you see, the proposed awards are closely
19 aligned with regards to a geographic split, with 42
20 percent of the applications being recommended for award
21 from Northern California, and 58 percent from Southern
22 California. Dollar-wise it is almost equal with 49
23 percent of the funds being recommended for Northern
24 California, and 51 percent of the funds for Southern
25 California.

1 At this time I'd like to proceed with staff
2 recommendation of approval of option number one, adopt
3 Resolution 2003-234 and award the twelve grants for
4 \$2,674,197.43.

5 Thank you very much. This concludes my
6 presentation.

7 Might I answer any questions?

8 COMMITTEE CHAIR MEDINA: Board members, any
9 questions? Comments?

10 Board member Washington.

11 COMMITTEE MEMBER WASHINGTON: Mr. Chair, I'd
12 like to move adoption of Resolution 2003-234,
13 consideration of approval of grant awards for the used
14 oil recycling non-profit grant program, fifth cycle,
15 fiscal year 2002-2003.

16 COMMITTEE MEMBER JONES: I'll second.

17 COMMITTEE CHAIR MEDINA: Resolution 2003-234
18 has been moved by Board member Washington, seconded by
19 Board Member Jones.

20 Substitute the previous roll call.

21 And this will go on fiscal consent.

22 COMMITTEE MEMBER WASHINGTON: I'll be glad to
23 take each one of these checks to each one of these
24 organizations and present it to 'em.

25 COMMITTEE MEMBER JONES: Both north and south?

1 COMMITTEE MEMBER WASHINGTON: Both north and
2 south.

3 MR. LEE: Board item 25, committee item P is
4 consideration of a scope of work and contractor for the
5 community-based social marketing pilot to increase used
6 oil recycling participation, fiscal year 2002-2003, used
7 oil fund contract concept number 0-33.

8 Dana Stokes will make this presentation.

9 MR. STOKES: Good morning, Committee members.
10 My name is Dana Stokes and I'm with the Used Oil and
11 Household Hazardous Waste Branch.

12 You approved this item at the October, 2002
13 Board meeting. And this item seeks Board approval of
14 the scope of work in order to implement a community
15 based social marketing pilot to increase used oil
16 participation.

17 The goal is to increase the number of used oil
18 recycling participants and the volume of used oil
19 collected in Los Angeles, Madera, and Napa Counties.
20 These counties were selected based on their
21 representation of the urban, suburban, and rural
22 communities in California.

23 The pilot will involve the contractor and
24 county used oil recycling coordinators jointly
25 developing and implementing a barrier study to determine

1 the impediments to recycling used oil in each one of
2 these communities.

3 They will develop a tailored community-based
4 social marketing campaign to overcome those barriers.
5 And they'll do it on a pilot test basis, and then
6 implementation of the social marketing campaign for a
7 four to five month period.

8 The oil recycling coordinators will collect pre
9 and post pilot used oil recycling data. And then the
10 contractor and coordinators will evaluate the marketing
11 campaign's impact on used oil collection and the
12 recycling participation in each community.

13 And if the impact is positive, this information
14 will be shared with other jurisdictions in California.

15 This concludes my presentation. Do you have
16 any questions?

17 COMMITTEE CHAIR MEDINA: Thank you.

18 Board members, any questions?

19 Board Member Paparian.

20 COMMITTEE MEMBER PAPARIAN: Thank you, Mr.
21 Chairman. I think this is an excellent program and is
22 really the direction we ought to be moving in in a lot
23 of areas, testing out some of these concepts and seeing
24 what works.

25 This is the sort of thing, members, that I was

1 trying to get across in the tire program as well. This
2 is the type of marketing campaign we need to do to
3 encourage source reduction in the tire area. And
4 hopefully we'll be able to restore some of the funding
5 that we could have used in the tire area, because I
6 think this is the kind of thing, the kind of direction
7 we really need to go in.

8 MR. LEE: Mr. Paparian, we are going to be
9 moving to try and utilize some synergies between the
10 used oil and tire program in the future.

11 And I concur with you, I think the social
12 marketing is something we feel has great merit, and it
13 is our expectation that we will use the monies that have
14 been set aside in the budgets to pursue these
15 opportunities in a social marketing area.

16 COMMITTEE CHAIR MEDINA: Any further comments?
17 Questions?

18 If not, do we have a motion in regard to this
19 item?

20 COMMITTEE MEMBER PAPARIAN: I'll move it. I'll
21 move Resolution 2003-274. Are there two resolutions?
22 Yes.

23 I'll start with, I'll move Resolution 2003-233,
24 consideration of scope of work for community based
25 social marketing pilot to increase used oil recycling

1 participation, used oil fund contract concept number
2 0-33.

3 COMMITTEE MEMBER JONES: Second.

4 COMMITTEE CHAIR MEDINA: Resolution 2003-233
5 has been moved by Board Member Paparian, seconded by
6 Board Member Jones.

7 Substitute the previous roll call.

8 COMMITTEE MEMBER PAPARIAN: And then I'd also
9 like to move Resolution 2003-274, consideration of
10 approval of California State University San Marcos as
11 contractor for the community-based social marketing
12 pilot used oil recycling participation.

13 COMMITTEE MEMBER WASHINGTON: Second.

14 COMMITTEE CHAIR MEDINA: Resolution 2003-274
15 has been moved by Board Member Paparian, seconded by
16 Board member Washington for a contract in the amount of
17 \$120,000.

18 Substitute the previous roll call.

19 And this will be fiscal consent.

20 MR. LEE: Board item 37, consideration of
21 approval -- excuse me, going a little bit too fast.

22 Board item 36, committee item Q is
23 consideration of a request to exempt the waste tire
24 enforcement grant program from the permit checklist
25 requirement.

1 Don Dier will make the presentation.

2 MR. DIER: Thank you, Jim.

3 Committee members, this item requests that the
4 permit checklist requirement be exempted for the waste
5 tire enforcement grant program. The nature of the work
6 under this grant program is essentially doing
7 inspections and surveillance for the Board, so staff
8 felt it was inappropriate to apply the checklist
9 requirement.

10 I would like to reassure the committee though
11 that this does not mean that those requirements won't be
12 met if needed, that all standard grant agreements have
13 provisions for complying fully with all federal, state,
14 and local laws, ordinances, and regulations. So that
15 will still be in the standard agreement.

16 So if the committee and Board agrees with staff
17 recommendation, we ask that you adopt Resolution
18 2003-230.

19 COMMITTEE MEMBER JONES: Mr. Chair.

20 COMMITTEE CHAIR MEDINA: Board Member Jones.

21 COMMITTEE MEMBER JONES: I'll move adoption of
22 Resolution 2003-230, consideration of the request to
23 exempt the waste tire enforcement grant program from the
24 permit checklist requirement.

25 COMMITTEE CHAIR MEDINA: Is there a second?

1 COMMITTEE MEMBER WASHINGTON: Second.

2 COMMITTEE CHAIR MEDINA: Okay. Resolution
3 2003-230 has been moved by Board Member Jones, seconded
4 by Board member Washington.

5 Substitute the previous roll call.

6 This will be placed on consent.

7 MR. LEE: Board item 37, committee item R is
8 consideration of approval of proposed applicant
9 eligibility, project eligibility, scoring criteria, and
10 evaluation process for fiscal year 2003-2004, waste tire
11 playground cover grant program.

12 Linda Dickinson will make this presentation.

13 COMMITTEE MEMBER WASHINGTON: Mr. Chair.

14 COMMITTEE CHAIR MEDINA: Board member
15 Washington.

16 COMMITTEE MEMBER WASHINGTON: I'd like to move
17 adoption of Resolution 2003-231 --

18 MR. LEE: If I may interrupt, Board member
19 Washington. There's one potential amendment that staff
20 wanted to introduce to this, to this agenda item and
21 resolution that's come up since the agenda item was
22 originally published.

23 And again, if we can have a few minutes of the
24 committee's time again to discuss that with the
25 committee to see if it meets with your approval.

1 MS. DICKINSON: I'd just like to bring to the
2 committee's --

3 COMMITTEE MEMBER WASHINGTON: I take back all
4 the stuff that I said.

5 COMMITTEE MEMBER JONES: I was ready to
6 second. I read the item.

7 (LAUGHTER.)

8 MS. DICKINSON: We just wanted to bring up an
9 eligibility issue. We were contacted by some people who
10 wanted to apply for the grants, some schools, and
11 several reasons were given why they couldn't keep their
12 facility open during normal recreational hours; and
13 those were like access, security, vandalism, and safety.

14 So we were asking for, if those schools have a
15 reason like that, if they could be exempt from keeping
16 their playground open to the public during normal
17 recreational hours.

18 And we have a whole list of reasons that they
19 can supply to us to do that. That's what we wanted to
20 add to it.

21 COMMITTEE CHAIR MEDINA: That makes a lot of
22 sense to me, that's something I'm very supportive of.

23 COMMITTEE MEMBER WASHINGTON: Absolutely.

24 COMMITTEE CHAIR MEDINA: Board Member Paparian.

25 COMMITTEE MEMBER PAPARIAN: I had a question on

1 a different topic on this. In the evidence of recycled
2 content purchasing policy or directive, in some of the
3 past tire related grants we were starting to put in some
4 tire specific items in there, use of RAC or --

5 MS. DICKINSON: They're in there. They would
6 be in there for the application, they're in there. In
7 the application, but not on the criteria specifically.

8 COMMITTEE MEMBER PAPARIAN: Not on the criteria
9 list?

10 MS. DICKINSON: Right, but it's on the
11 application we put boxes.

12 COMMITTEE MEMBER PAPARIAN: As examples of
13 kinds of things?

14 MS. DICKINSON: Right.

15 COMMITTEE MEMBER PAPARIAN: Okay.

16 COMMITTEE CHAIR MEDINA: Very good. Board
17 member Washington.

18 COMMITTEE MEMBER WASHINGTON: Thank you, Mr.
19 Chair.

20 I'd like to move adoption of Resolution
21 2003-231, consideration of approval of proposed
22 applicant eligibility, project eligibility, scoring
23 criteria, and evaluation process for the fiscal year
24 2003-2004 waste tire playground cover grant program.

25 COMMITTEE MEMBER JONES: Second.

1 COMMITTEE CHAIR MEDINA: Resolution 2003-231
2 has been moved by Board Member Washington, seconded by
3 Board member Jones.

4 Substitute the previous roll call.

5 And this will go on consent.

6 MR. LEE: Chairman Medina, I just want to
7 clarify again, I think Board member Washington was
8 talking about to include the exemption as noted by
9 staff.

10 COMMITTEE CHAIR MEDINA: Yes, the exemption
11 will be included.

12 COMMITTEE MEMBER WASHINGTON: Yes.

13 MR. LEE: Thank you. Just for clarification on
14 Board item 38, committee item S, that's been pulled.

15 Board item 39, committee item T is
16 consideration of approval of new sites for remediation
17 under the waste tire stabilization and abatement
18 program.

19 As part of this presentation staff was going to
20 discuss one case example of what I think was the Vinocur
21 site down in Southern California which kind of
22 illustrates some of the unique situations and problems
23 that staff often encounters in trying to clean up these
24 sites.

25 However, in the interest of meeting our time

1 deadline and moving these things expeditiously, I'd
2 propose to defer that portion of the presentation to a
3 later time.

4 So Gale Grigsby will make the staff
5 presentation.

6 COMMITTEE CHAIR MEDINA: Very good.

7 MS. GRIGSBY: Good morning, Mr. Chairman and
8 committee members.

9 The Public Resources Code authorizes the Board
10 to expend money from the California tire recycling
11 management fund to perform cleanup, abatement, or
12 remedial work required to prevent substantial pollution,
13 nuisance, or injury to the public health and safety
14 and/or environment at waste tire sites where the
15 responsible parties have failed to take the appropriate
16 action as ordered by the Board.

17 Currently we have a contract in place that will
18 deal with the remediation of the short-term sites.

19 This item has twelve illegal sites for
20 remediation under this program. The sites are somewhat
21 similar, they are all located in remote and rural areas
22 of the desert. They're fairly small in size in terms of
23 the number of waste tires.

24 And ideally we would like to remediate some of
25 these sites together in little small groups in an effort

1 to keep the costs down to the property owner.

2 First site is Peg Leg, waste tire site in
3 Borrego Springs, San Diego County.

4 195 acres of open desert.

5 Approximately 16,000 passenger tire equivalents
6 on this property.

7 The tires are being used as a barrier for flash
8 flooding, however there's very little rainfall in this
9 area.

10 There's no fencing on this property, and
11 there's no water readily available to extinguish a tire
12 fire.

13 The property owner has indicated he'd be
14 willing to allow the Board to clean up the tires and
15 negotiate a stipulated lien.

16 A.J. Ranch waste tire site is in Llano in Los
17 Angeles County.

18 It's a ten acre site with approximately 7,000
19 passenger tire equivalents in one large stockpile.

20 Open desert with one residence within one
21 hundred feet of the tires.

22 There's some fencing, it's not secure fencing.
23 And there is no source of water available to extinguish
24 a fire.

25 In addition to the tires we've abandoned

1 vehicles, mobile homes, and other discarded items.

2 We've taken the site through the enforcement
3 process and even held an administrative hearing.

4 We've had absolutely no contact from the
5 property owner, and it appears he lives right on site.

6 North Nash Hill waste tire sites. There are
7 three sites in the immediate area, three separate
8 parcels in El Mirage, San Bernardino County.

9 Nash Hill I, or North Nash Hill I, 3,000
10 passenger tire equivalents.

11 The second site, 4,000 passenger tire
12 Equivalents.

13 And the third site, 3,800 passenger tire
14 equivalents.

15 Open desert with squatters living in and around
16 the tires.

17 No fencing, no water.

18 Abandoned structures and other types of
19 household waste discarded.

20 All the landowners are absent landowners.

21 One of these property owners has indicated he'd
22 let us clean up the tires and negotiate a lien, so we've
23 got to get the same type of agreement with the other two
24 property owners.

25 Erma Andrews waste tire site in Hinkley, San

1 Bernardino County.

2 Approximately 2,000 passenger tire equivalents
3 in three separate structures.

4 What this property owner has done is he's
5 formed two fences with the tires, and a third one he's
6 actually built a little building, a little shed out of
7 the tires.

8 There's no fencing on site, and no source of
9 water to extinguish a fire.

10 The property owner recently died and the
11 property is in probate. The owners or the tenants of
12 this property were the operators and were responsible
13 for bringing the tires on site.

14 The one thing that makes this site a little
15 different is the current tenant was recently deployed to
16 active duty and is a pilot overseas right now. So we
17 are trying to work with his wife in coming to some kind
18 of a solution that they can afford to do and we can
19 remove the tires from the property.

20 Norman Gunn waste tire site is a ten acre
21 parcel in Phelan, San Bernardino County.

22 Approximately 2,000 passenger tire equivalents
23 scattered over several acres.

24 Open desert.

25 There's a residence within a thousand feet.

1 The aqueduct channel is also within 1,000 feet.

2 There's a substantial amount of household
3 waste, wood waste, green waste, abandoned vehicles, and
4 friable asbestos on this site also.

5 We'd be looking at the tires only.

6 West Needles. 37 acres in West Needles, San
7 Bernardino County.

8 A thousand passenger tire equivalents
9 scattered.

10 Open desert.

11 Squatters living in or around the tires.

12 No fencing or water.

13 Substantial amount of other wastes on site.

14 This is another site where the property owner
15 has indicated he'd be willing to let us clean it up and
16 negotiate a stipulated lien. And this property owner is
17 absent also.

18 Birmingham Terminal. Five acre parcel in
19 Lucerne Valley, San Bernardino County.

20 2,000 passenger tire equivalents scattered over
21 open desert.

22 No fencing, no water.

23 Substantial amounts of other wastes on this
24 property.

25 This property has been, property taxes have

1 been delinquent for more than three years, it appears
2 the property is going to default back to the county.

3 Amos Dixon waste tire site, a multi-acre parcel
4 in Lucerne Valley, San Bernardino County.

5 9,000 passenger tire equivalents.

6 Open desert.

7 No fencing, no water.

8 No residences nearby.

9 There's ten large piles of C&D waste in
10 addition to the tires.

11 Several years ago code enforcement attempted to
12 remediate the tires through a cleanup grant, and they
13 did obtain a grant through the Board, however they ran
14 out of money and they were not able to remove all the
15 tires. They underestimated the number of tires that was
16 on site.

17 The property owner is elderly and has no funds
18 to remediate the site.

19 Manasero waste tire site. Another multi-acre
20 parcel in Lucerne Valley, San Bernardino County.

21 Approximately 7,800 passenger tire equivalents
22 in two disposal areas on the property.

23 No fencing, no water.

24 In addition to the tires, the site's become a
25 construction dump site.

1 There are residences within 1,000 feet of the
2 tires.

3 The property owner is an elderly woman, we've
4 not been able to locate her, we can't get an address on
5 her.

6 The last one, Marone waste tire site, a ten
7 acre parcel in San Bernardino County.

8 3,500 passenger tire equivalents scattered over
9 several acres.

10 Seven substandard buildings, water wells.

11 Substantial amount of household waste.

12 No fencing, no water.

13 The property owners that we took our
14 enforcement action against, they fled to South America.

15 The property has recently been sold in a tax
16 sale. The Franchise Tax Board has a \$500,000 lien on
17 the property right now.

18 We've presented four options to the Board.
19 Staff is recommending adoption of Resolution 235,
20 approving these twelve sites for remediation under the
21 waste tire stabilization and abatement program.

22 That concludes my presentation.

23 COMMITTEE CHAIR MEDINA: Thank you for your
24 presentation.

25 Board Member Jones followed by Board member

1 Washington.

2 COMMITTEE MEMBER JONES: I was going to make a
3 motion, so if he has a question?

4 COMMITTEE MEMBER WASHINGTON: Gale.

5 MS. GRIGSBY: Yes.

6 COMMITTEE MEMBER WASHINGTON: In terms of these
7 amounts of tires.

8 MS. GRIGSBY: Yes.

9 COMMITTEE MEMBER WASHINGTON: It sounds like,
10 it sounds like to me that these folks who willingly want
11 to negotiate and help out and pay for this stuff, do we
12 know how these tires, or do they give you any answers as
13 to how these tires got to these sites?

14 MS. GRIGSBY: In a few of these sites we have
15 knowledge of how the tires arrived there, but most of
16 them appear to just be open dumping sites because
17 there's so many other materials on site.

18 COMMITTEE MEMBER WASHINGTON: So it's, it's no
19 way to figure if they've received any resources from
20 those tires ending up on their sites or not?

21 MS. GRIGSBY: No. And I want to point out, the
22 number of tires is estimated at this point, and the
23 budget that we request in here is also estimated. We
24 usually come in with a two dollar per tire estimate to
25 clean up the tires.

1 COMMITTEE MEMBER WASHINGTON: Okay.

2 COMMITTEE MEMBER JONES: Mr. Chair.

3 COMMITTEE CHAIR MEDINA: Board Member Jones.

4 COMMITTEE MEMBER JONES: I'll move adoption of
5 Resolution 2003-235, consideration of approval of new
6 sites for remediation under the waste tire stabilization
7 and abatement program.

8 COMMITTEE CHAIR MEDINA: Is there a second?

9 COMMITTEE MEMBER WASHINGTON: Second.

10 COMMITTEE CHAIR MEDINA: Resolution 2003-235
11 has been moved by Board Member Jones, seconded by Board
12 member Washington.

13 Substitute the previous roll call.

14 And this will go on the consent calendar.

15 MR. LEE: Chairman Medina, in looking at the
16 clock and your previously announced schedule, if it's
17 the committee's desire we could do the oral presentation
18 with regards to that cleanup on the Vinocur site just
19 for the committee's information, or we can defer to a
20 subsequent meeting, whatever the committee's pleasure.

21 COMMITTEE CHAIR MEDINA: I think we'll defer to
22 a subsequent meeting so that we can adjourn for lunch
23 and come back at 1:00 o'clock for the remaining items,
24 item U, status report on the Sonoma waste tire site, and
25 discussion and request for direction of the open and

1 revised five year plan for the waste tire management
2 program.

3 With that, we're adjourned for lunch. We shall
4 return here at 1:00 o'clock.

5 (Thereupon the luncheon recess was taken.)

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1 AFTERNOON SESSION

2 --oOo--

3 COMMITTEE CHAIR MEDINA: This meeting is
4 called to order.

5 Mr. Paparian.

6 COMMITTEE MEMBER PAPARIAN: Yes, I spoke with
7 John Cupps about the tire plan and two items on our
8 agenda tomorrow.

9 COMMITTEE CHAIR MEDINA: Board member
10 Washington.

11 COMMITTEE MEMBER WASHINGTON: I'm up to date.

12 COMMITTEE CHAIR MEDINA: And I'm up to date.

13 With that, we'll go to Mr. Jim Lee.

14 MR. LEE: Thank you, Chairman Medina.

15 As you may recall this morning, there was a
16 portion of the discussion on committee item T,
17 consideration of the approval of new sites for
18 remediation that we indicated we had a video
19 presentation that we thought would be of interest to the
20 committee. It basically kind of highlights some of the
21 issues and some of the problems, if you will, that staff
22 often encounters in trying to remediate some of these
23 sites.

24 So it's, we're presenting it with the intent
25 of, you know, basically just kind of showing you what's,

1 you know, what our world looks like sometimes in working
2 on some of these remediation sites.

3 So I'll turn it over to Gale Grigsby to make
4 the presentation.

5 MS. GRIGSBY: Hi, again. This is a short
6 video, about four to five minutes long. It just shows
7 some of the conditions on site.

8 We're going to show it, we have a voiceover
9 that sort of explains the video, and then right after
10 it's over I'm going to give you some comments about how
11 this remediation went from staff's perspective.

12 This is one of the oldest tire sites we ever
13 had, this was one of the first discovered back in late
14 '96.

15 (Thereupon there was a video presentation.)

16 MS. GRIGSBY: Okay. Just to recap, we started
17 enforcement efforts on this site in '96.

18 And then in 1997 we had gone to an
19 administrative hearing and were awarded a \$90,000
20 penalty against the property owner.

21 The property owner was given until December of
22 '98 to clean the site. He never made any effort to
23 clean the site.

24 We then had to go to Superior Court and get a
25 summary judgment and convert that lien, convert that

1 civil penalty into a lien against the property, which we
2 did.

3 At that same time the property owner
4 transferred the property to another individual's name,
5 and that individual ended up being his mother.

6 In the year 2000 the property owner appealed
7 the Superior Court action, and so this is continuing to
8 hold us up starting any kind of a remediation.

9 Ultimately the judgment was upheld by the
10 appellate court, and we then had to pursue property
11 access.

12 In 2002, still would not give us property
13 access, continued to fight us.

14 And we went in again to Superior Court, and
15 Superior Court granted us a preliminary injunction to
16 start the remediation and remove all the waste tires
17 from the site.

18 The property owner again filed another appeal.

19 Two months later we did get permission to go in
20 and start the remediation. We worked on site for
21 approximately one week, we mobilized all our equipment,
22 we removed approximately 40,000 tires.

23 And again property owner files another appeal.
24 Remediation stops and we have to come back off-site.

25 In November of '02 the Superior Court again

1 dismisses the appeal on technicalities, and the
2 remediation was scheduled to continue again in January
3 of '03.

4 We were successful, we went in in January, '03,
5 worked for a good solid week, got all the tires
6 off-site.

7 However, we had to do it under law enforcement,
8 armed law enforcement. There were at least four Keep
9 the Peace calls with police officers during the
10 remediation.

11 The property owner continued to be adamantly
12 opposed to government being there and tried to create
13 problems that would hinder the remediation.

14 The property owner also called the media out
15 there and had the local news channel out there trying to
16 tell his side of the story on how the state was trying
17 to take his tires away from him.

18 And we never really found any viable use for
19 these tires. He claimed that they were a material,
20 stockpile of material that he would use to make rubber
21 mats out of.

22 Let's see what else happened. Finally when we
23 did finish we learned that there were evil spirits
24 living in those tires, and by removing the tires we had
25 disrupted the evil spirits. And several of the property

1 owner's friends were very seriously convinced about
2 this, and were concerned about what was going to happen
3 to the property after we left.

4 After we removed the tires we restored the site
5 the best that we could, and on the final day of leaving
6 the property owner came out and showed us the invisible
7 ladder to heaven, and made a little shrine around this
8 certain area in the tires.

9 But the property owner was pretty crazy and
10 gave us a lot of headaches. He filmed us the whole time
11 we were out there. He just became a pain and had quite
12 a history with law enforcement individuals also.

13 But he was there, he watched us. We were able
14 to get the site cleaned up and we did take off 80,000
15 tires off his site.

16 That's it.

17 COMMITTEE CHAIR MEDINA: Okay. Wonderful.
18 Thank you for your presentation.

19 Board members, any comments? Questions?

20 Board Member Paparian.

21 BOARD MEMBER MEDINA: Yeah, just one point
22 again, a concern that I've had, and that is making sure
23 that our staff is personally safe as they deal with
24 situations like this, you know.

25 It's disturbing that we have to get into a

1 situation where the officers have to be called several
2 times and so forth. But I think that it might be, I
3 probably would look at Mark and the legal staff, cause
4 this applies to other programs as well, it might be
5 worth just kind of debriefing the people involved to see
6 if there's any new procedures or protocols or anything
7 that we might want to develop as we learn from these
8 situations to make sure that our staff is as safe as
9 they can possibly be when you're dealing with difficult
10 situations like this.

11 MR. LEE: Yeah, I thank you for your comments,
12 Mr. Paparian. Like I say, I too share your concerns.
13 Gale has described to me some of these stories, this is
14 probably just one of the prime examples.

15 But, you know, we're often on some of these
16 cleanup sites, we're dealing with individuals that are,
17 shall we say, have some personal idiosyncrasies, to say
18 the least, and sometimes, you know, these issues can
19 manifest themselves as, you know, potential threats to,
20 you know, workers, to the safety of our employees.

21 This is something we deal with. You know, I
22 think Gale handled the situation very well. We
23 basically called in the law enforcement authorities as
24 we needed them, you know, to assist us with our efforts.

25 But it's, we tell you all this to kind of just

1 show you some of the, you know, problems that we have to
2 deal with, you know, when we're out there, you know,
3 trying to remediate these sites.

4 COMMITTEE CHAIR MEDINA: Okay. Thank you.

5 Mr. Lee, with that, that's a good segueway into
6 the next item which is agenda item number 40, and that's
7 a status report on the Sonoma waste tire sites. And in
8 this regard, as someone that's not fully cognizant of
9 all the facts or all the issues in regard to this
10 matter, and I know there's some other Board members that
11 also would, if we could have from staff, if we could get
12 a history on the Sonoma tire piles, some of the issues
13 as perceived by staff, some of the findings, and
14 whatever analysis you've done, and any followup that you
15 think needs to be done.

16 So basically just bring us up to speed on this
17 item so that we, as a Board, can move forward in taking
18 whatever steps are necessary to address this matter.

19 MR. LEE: Thank you, Chairman Medina. That is
20 indeed our intent this afternoon.

21 What we're planning to do this afternoon is
22 make an oral presentation on this particular situation.
23 It's basically a reprise of the presentations made at
24 the public workshops in Sonoma last fall. We have new
25 Board members who were not on the Board when this item

1 was discussed at that time.

2 And again, the purpose of today's presentation
3 is designed to bring all of the Board members up to
4 speed, if you will, on the background, the history, and
5 some of the issues which are involved, and to set the
6 stage for subsequent decisions which will have to be
7 made by the Board in the near future to resolve this
8 matter.

9 With that brief introduction, I'd like to turn
10 this over to Steve Posner and Bob Fujii to make the
11 presentation.

12 MR. POSNER: Good afternoon. My name is Steve
13 Posner, and we'd like to start off with a short video
14 showing the sites.

15 (Thereupon there was a video presentation.)

16 MR. POSNER: That concludes the video. We
17 have a short PowerPoint presentation we'd like to do at
18 this time.

19 In 1990 the California legislature enacted
20 comprehensive requirements for the storage and disposal
21 of waste tires. The requirements for waste tire haulers
22 were added later in 1995. The.

23 Board was charged with the responsibility for
24 implementing these programs. These statutory
25 requirements are described in the Public Resources Code,

1 Division 30, Chapters 16, 17, and 19.

2 In Sonoma County we have what we refer to as
3 the Sonoma County legacy tire sites. Since 1993 the
4 Board has implemented or has investigated eight of these
5 waste tire sites. These tires were placed in gullies
6 and ravines for erosion control.

7 These sites are the Silacci waste tire site,
8 it's estimated to have approximately 200,000 waste
9 tires. And this site was referred to the Board by the
10 Sonoma County Department of Environmental Health.

11 The North American Universal Portfolio site,
12 formerly known as the Hale waste tire site, it's also
13 estimated to have over 200,000 waste tires. And this
14 site was also referred to the Board by the LEA.

15 The Flochinni waste tire site, estimated to
16 have 200,000 tires, also referred to the Board by the
17 LEA.

18 The Ahlgrim waste tire site, estimated to have
19 20,000 to 50,000 tires. This site was referred to the
20 Board by the LEA.

21 In 1996 the property owner rented a backhoe and
22 buried most of the tires on site. As you can see from
23 this photograph, this is a picture taken about four
24 years ago showing some of the sites which appear to have
25 resurfaced.

1 The Beebe Family Ranch site was referred to the
2 Board from the CHP as part of the waste tire aerial
3 surveillance program. Estimates of up to 800,000 tires
4 at this site.

5 Sears Point Raceway, also a referral from the
6 CHP. It's estimated five sites at Sears Point,
7 estimated to contain a hundred thousand tires between
8 the five sites.

9 The Valley Ford site was referred from the CHP
10 from the aerial surveillance program. The site is
11 estimated to have over 30,000 tires based on analysis of
12 the aerial photographs.

13 And the Wilson Beebe tire site was referred to
14 the Board by the LEA on November 1st, 2001, and is
15 estimated to have approximately 40,000 tires.

16 To date the Board has inspected six of these
17 sites. We've documented violations of the waste tire
18 standards. We've issued LOVs at five sites, issued
19 cleanup and abatement orders at three sites, and we have
20 reviewed corrective action plans for three sites.

21 These are the various enforcement tools that we
22 have at hand. They include issuing a letter of
23 violation, cleanup and abatement orders, the
24 administrative complaints, and Attorney General
25 referrals.

1 The letter of violation is our first step in
2 the enforcement process. It is sent out to the operator
3 and the property owner, and basically gives them a time
4 schedule to remove the waste tires from the site.

5 Cleanup and abatement orders are issued to the
6 operator and property owner. They cite the outstanding
7 violations, establishes a waste tire removal schedule,
8 and lists the punitive actions which may result if the
9 order is not complied with.

10 Administrative complaint. A hearing is
11 conducted by the Office of Administrative Hearings.
12 Penalties are requested and -- well, actually penalties
13 are requested against the responsible parties.

14 In determining an appropriate penalty, we base
15 that on the approved Board's penalty matrix. The
16 penalty can be assessed based on the number of tires on
17 site, the number of days that the site is out of
18 compliance, the proximity to sensitive environments,
19 whether or not there are repeat offenses at the site.
20 And these penalties may be up to \$10,000 per day.

21 At this point I'd like to turn over the, turn
22 it over to Bob Fujii who will conclude our
23 presentation.

24 MR. FUJII: Thank you. Members of the
25 committee, Bob Fujii, Special Waste Division.

1 At this point in the process is when we've
2 completed much of the enforcement work and the sites are
3 typically referred over to the tire remediation section
4 for pursuing a Board managed cleanup of the site.

5 Before we bring the sites to the Board for
6 approval though, we typically conduct site
7 investigations with our contractor and our remediation
8 staff to determine a little, get a little better idea
9 the number of tires, and provide a better cost estimate
10 for what it's going to take to clean the sites up. So
11 that's typically included in the agenda item that you
12 heard before you.

13 COMMITTEE CHAIR MEDINA: These various steps
14 that you described here, we have not as yet undertaken
15 those steps, have we?

16 MR. FUJII: I'm sorry say it again? No, we
17 have not. We have not. And then typically, if
18 necessary, what we will need to do is obtain site
19 access, and this can be a very easy process or, as you
20 heard earlier from Gale, it can be a very complicated
21 process depending on how recalcitrant the property owner
22 happens to be. So we would work with our legal office
23 and Attorney General to secure that access if we needed
24 to.

25 Then after the cleanup is completed we will

1 refer the site to the legal office to recover the
2 Board's active cleanup costs.

3 And this pretty much concludes the Board's
4 enforcement process. So this is sort of the last step
5 in, you know, when we take enforcement action, this is
6 sort of the last step in this process.

7 At this point I'd just like to bring up a few
8 issues in regard to the Sonoma County sites. We've had
9 some preliminary meetings with some of the regulatory
10 agencies regarding the Sonoma sites, and they've
11 indicated to us that there may be a need to secure some
12 kind of permits or to at least have some degree of
13 oversight by their agencies when we conduct these
14 cleanups.

15 And some of the agencies that have been
16 involved with this are the Department of Fish and Game,
17 Regional Water Quality Control Board, Army Corps of
18 Engineers, U.S. Fish and Wildlife Service, Mosquito
19 Abatement District, and local fire authority.

20 The reason that this is important is because we
21 don't always do this, but we can be a little more
22 sensitive, it may cause the cleanup to take a little
23 longer and maybe add to the cost of the cleanups
24 ultimately.

25 And there are a couple reasons why we need to

1 clean up the tire pile. The first is, as most of you
2 are well aware of, if tire fires. We've had three major
3 tire fires in California over the last several years,
4 the Pinoche tire fire, the Tracy tire fire, and Westley
5 tire fires. And we know from experience that tire fires
6 can cause significant environmental damage and can be
7 very costly to clean up. So this is a situation we all
8 want to avoid.

9 Second, another reason to clean up tire piles
10 is to prevent the spread of West Nile virus. There is a
11 lot of standing water in the tire piles and, therefore,
12 they provide a good breeding ground for mosquitoes.

13 I remember we were at one of the Sears Point
14 sites on one of our site visits, and one of the mosquito
15 abatement officials was out there and happened to take a
16 sample. And just in that one scoop of water I think
17 they found, I don't know, several dozen mosquito larvae
18 in just that small sample. So they're there to avoid
19 accumulation of tires if we can.

20 And then just a few other issues here. It's
21 been suggested that we can eliminate the threats we just
22 mentioned by simply burying these tires. Unfortunately,
23 burying, burial of whole tires is prohibited by our
24 statute and reg.

25 PRC Section 44002 states that, "No person shall

1 operate a solid waste facility without a solid waste
2 facilities permit."

3 And even if you did have a permit, under Title
4 14 you would be required to permanently reduce those
5 tires in volume before you could landfill them.

6 Then the tires, you know, the tires in this
7 area were placed to mitigate erosion control problems.
8 However, it's important to know that there are erosion
9 control problems in areas where the tires are not
10 located as well, so it's a problem that is prevalent to
11 the area.

12 And in the areas where the tires are placed,
13 it's likely that just the bottom layer of the tire piles
14 is providing any erosion control benefit.

15 And lastly, as you saw from the video, we've
16 used the CHP to conduct aerial surveillance in this area
17 as well as other areas of the state. And through that
18 surveillance we have located several sites such as the
19 Wilson Beebe site and the Valley Ford sites, but there
20 may be other sites out there that we have not yet
21 detected. And through the aerial surveillance we'll
22 hopefully be able to get those.

23 Anyway, that pretty much concludes our
24 presentation. Are there any questions?

25 COMMITTEE CHAIR MEDINA: I have one question

1 and then I'm going to pass it on to the other Board
2 members.

3 And specifically in regard to the estimated
4 number of tires, what does it take to get an accurate
5 count in regard to the exact number of tires that we
6 have at these sites? Is that possible? How much would
7 it cost? What's the process?

8 MS. GILDART: Martha Gildart with the Special
9 Waste Division.

10 It's a multi-step process, but it's one that we
11 undertake regularly when addressing tire piles on sites.

12 We have an ongoing contract for remediation at
13 these sites, and we could have the contractor make site
14 visits to develop measurements that can help in our
15 formulas for calculating the tires.

16 Nonetheless, the number we get is only an
17 estimate, it's a range. One of the issues is how deep
18 is a ravine. There may not be any information on how
19 deep the ravine was before the tires were placed there,
20 so you don't quite know the total volume.

21 Another issue is how long have the tires been
22 there. You get a pancaking effect of the tires at the
23 bottom of the pile, and the older they are the more that
24 will flatten out. So it's possible that there are more
25 individual tires there than just the volume estimates

1 would give.

2 So quite often when we do get onto a site and
3 are actually conducting a remediation, we won't know the
4 exact number of tires until we're completed with that.
5 But it is possible to get a more accurate number than
6 you see here. These numbers were pretty much estimated
7 from the photographs, from the flyovers, or from a
8 couple of walk-throughs, but they are rough estimates.

9 Are there other questions?

10 COMMITTEE CHAIR MEDINA: Board Member Paparian.

11 COMMITTEE MEMBER PAPARIAN: Yeah, a couple
12 things. The last point you had about other sites. Are
13 we continuing to look for other sites? How is that
14 going? Have we got any indications that there might be
15 other sites?

16 MR. POSNER: Well, currently we have an
17 interagency agreement with the CHP to do aerial
18 surveillance for the whole state, which would include
19 Sonoma County. So it's possible if there are other
20 sites out there that they would be identified by the CHP
21 aerial surveillance program.

22 A number, two of these sites I believe that we
23 already talked about were identified in earlier
24 flyovers. So it's possible, I suppose that they may
25 have missed some other sites, and we're hopeful if they

1 did that they would be picked up in this round of
2 flyovers which is taking place this year.

3 COMMITTEE MEMBER PAPARIAN: And then what else,
4 what are we doing at this point in terms of -- let me
5 put it another way.

6 Where are we in terms of getting to the point
7 where these sites can be cleaned up?

8 MS. GILDART: One of the slides indicated that
9 some of the sites had received the initial effort in the
10 enforcement process which is the letter of violation.
11 That is a letter sent out under the signature of the
12 inspector who's conducted the inspection. And it is the
13 first sort of notification to the property owner that
14 there may be a problem.

15 Typically what we do after that if they don't
16 respond to the letter of violation is issue a cleanup
17 and abatement order. We've only done that on three of
18 the sites.

19 Typically then if there is no response to
20 cleanup and abatement orders, then we go through the
21 court process. That's what the administrative complaint
22 is, that's prepared by the legal office. And the hope
23 is that the courts will then give us site access as well
24 as assessing penalties.

25 We can then have the remediation program go

1 on-site to clean up the tires.

2 And then often there's a followup step of
3 seeking cost recovery against the site at the end of
4 that process.

5 As far as I'm aware we've done six letters of
6 violations and three cleanup and abatement orders, and
7 that's it, at these sites.

8 COMMITTEE MEMBER PAPARIAN: So for the three
9 sites that have cleanup and abatement orders, are you
10 expecting those to be cleaned up at some point soon or
11 what's going to happen with those sites?

12 MS. GILDART: That is when our normal process
13 was interrupted through some concerns of the property
14 owners, of some of the Board members, of some of the
15 local politicians, some of the other local state
16 agencies.

17 The questions were brought forward as to
18 whether or not our going in to remove the tires would
19 make worse the existing erosion problem, sedimentation
20 problems in the river.

21 Indications were given us that if we were to
22 move onto site, we would have to file for permits from
23 these various agencies, you know, whether it's the Fish
24 and Game and the water boards, etcetera, which is
25 something we've not had to do on a routine basis in the

1 past.

2 And there were some further discussions about
3 the long term use of the land and whether or not this
4 Board had any responsibility for putting in place a
5 substitute erosion control method once we remove the
6 tires.

7 And those discussions have been ongoing for a
8 couple of years now.

9 COMMITTEE MEMBER PAPARIAN: Okay. So the
10 cleanup and abatement orders are in abeyance
11 essentially?

12 MS. GILDART: Correct.

13 COMMITTEE MEMBER PAPARIAN: So we're having
14 discussions with the three or -- I mean I know there's
15 discussions with the Resource Conservation District,
16 right?

17 MS. GILDART: Correct.

18 COMMITTEE MEMBER PAPARIAN: Okay.

19 COMMITTEE CHAIR MEDINA: Can you identify those
20 three sites that have received the written orders?

21 MR. POSNER: Yes, the three sites were the
22 Silacci site, the Hale site, the former Hale site, the
23 Universal Portfolio site, and the Flochinni site. Those
24 three were issued cleanup and abatement orders.

25 COMMITTEE MEMBER PAPARIAN: Okay. I remember

1 at one of our five year plan workshops, I think it was
2 the woman from the Resource Conservation District who
3 asked the question, who do they deal with on this to get
4 this thing moving at this point, some question to that
5 effect. And I don't know that we quite answered her at
6 that point.

7 But is there, I'm really trying to get at where
8 are we at in the process and what's going to happen to
9 move the process forward?

10 MS. GILDART: Once again, going back to our
11 normal enforcement process. The cleanup and abatement
12 orders are typically signed by the Deputy Director for
13 the Special Waste Division.

14 The administrative complaint and legal case is
15 brought forward by the legal office.

16 What is unusual on this case has been the fact
17 that these sites were brought to the Board's attention,
18 questions were raised, there were political and policy
19 implications raised that were beyond our normal
20 step-by-step enforcement process.

21 Staff is very anxiously waiting for direction.
22 We have even prepared cleanup and abatement orders for
23 the remaining sites that have never been sent because of
24 the interruption of this process.

25 COMMITTEE MEMBER WASHINGTON: By the

1 politicians? I mean this is a new Board member speaking
2 in terms of this whole situation. Are you saying that
3 you guys are ready to go and all you need is direction
4 as to move forward? Is that what I'm hearing?

5 MR. LEE: That's part of it. Again, like I
6 said, I think as Martha and Steve had pointed out, again
7 the issues surrounding this have been particularly
8 intractable. I think this problem, I think we first
9 started looking into it I think eight or ten years ago.

10 I think in the recent years there's been a
11 couple of --

12 COMMITTEE MEMBER WASHINGTON: This has been in
13 existence for eight or ten years?

14 MS. GILDART: Yes. In fact, one of the sites
15 had applied to the Board, I think in 1993, '94 for a
16 cleanup grant that was awarded, however they failed to
17 perform on the cleanup grant, and the monies lapsed back
18 into the fund.

19 So yes, we've been aware of some of these sites
20 for about nine, maybe ten years.

21 MR. LEE: The point I was working on, Board
22 member Washington, is that there's been a big turnover
23 at the Board level too. Obviously if there's new Board
24 members, you know, I think, you know, basically we are
25 prepared to move ahead depending on what the consensus,

1 the will of the Board is on this.

2 COMMITTEE MEMBER PAPARIAN: I wonder if we
3 should hear from legal counsel about the status of
4 things.

5 CHIEF LEGAL COUNSEL TOBIAS: Anything in
6 particular?

7 COMMITTEE MEMBER PAPARIAN: Well I don't want
8 to cross the line between, you know, something that
9 might be enforcement related that we shouldn't be
10 discussing in public.

11 But it seems like, you know, in some other
12 areas, earlier today we voted on the cleanup of a whole
13 bunch of sites, and it was very clear what to do, you
14 know, and notices had already been issued on a lot of
15 the sites and so forth without the Board having to act.

16 CHIEF LEGAL COUNSEL TOBIAS: Normally that's in
17 the purview of the program and legal office to bring
18 those orders forward. I think staff did a good
19 presentation, I think, on the process.

20 Two things I would add is that, number one,
21 this is, this program is basic, is built on the idea of
22 a nuisance, and that once tires are on your property it
23 doesn't make any difference how they got there, why
24 they're there, who put them there, basically that
25 they're what's called a per se nuisance, which means

1 it's the responsibility of the landowners to take those
2 tires off the property. So I think that's important to
3 understand about the program.

4 I would also add that the reason that we go
5 through the, we have, and I think it's worked quite
6 well, we have a process that when those orders are first
7 issued to the property owners, the reason that they go
8 through what's called an administrative civil penalty
9 process is, the idea is that the property owners will
10 take the tires off the property before we get to it.

11 So the idea is that with that threat of a
12 penalty, the property owner will step forward and do
13 their own cleanup.

14 Then we only go after the penalty if the
15 property owner does not clean that property up.

16 Then it goes to cleanup, to tire cleanup,
17 they've cleaned it up, and then we go after the cost
18 recovery if that's necessary.

19 So I would say from my vantage point that all
20 of the parcels with tires that we have have been taken
21 through that same process.

22 You might have noticed today that there were a
23 couple of sites that did not have cleanup and abatement
24 orders on them, but those are simply because staff was
25 bundling all those projects to take forward at a point

1 in time that we would actually get to the remediation
2 point of it.

3 So all those projects will have cleanup and
4 abatement orders put on them, and then we will pursue
5 the remedies and the cost recovery if we need to.
6 That's the usual process.

7 COMMITTEE MEMBER PAPARIAN: If that's the usual
8 process, but for whatever reason that process is being
9 held in abeyance on these sites.

10 And I think what I'm hearing is that staff is
11 waiting for direction from the Board about how to
12 proceed on these sites. That's what I think I heard
13 from the program staff.

14 COMMITTEE CHAIR MEDINA: That's exactly what we
15 heard from staff. And I think in that regard, and I
16 can't speak for the whole Board, but as committee chair
17 and for some of the committee members that made an
18 on-site visit, I think that our direction to the staff
19 would be to move forward on this issue.

20 We haven't had anything in writing that we can
21 review, and we would also base, on whatever the process
22 has been, you know, whatever advice legal counsel has,
23 we'd like some staff recommendations as well so that we
24 can move forward on these issues because I think that
25 those of us that are new to the committee, and I know

1 that other members of the Board would like some
2 resolution to this issue.

3 Board member Washington.

4 COMMITTEE MEMBER WASHINGTON: I guess this is
5 to Mark or Kathryn. I'm trying to get the history.
6 We're talking about something that happened ten years
7 ago, and here we are in 2003 talking about the same
8 issue. Where is the breakdown that occurred?

9 Now I hear some political noise is being made.
10 I need to understand where are we in terms of why this
11 is not a done deal issue? If we're ordered by statute
12 to do certain things, why are we continuing to delay
13 this issue, you're still before this Board still
14 talking about this issue?

15 And perhaps you can give me the legal or the
16 executive point of view of what happened? Is the Board
17 responsible? Or obviously the Board is responsible for
18 it, but is there something that's taken place that I'm
19 missing here?

20 EXECUTIVE DIRECTOR LEARY: Kathryn is going to
21 allow me to start first here so I will give it a whack.

22 Having some familiarity with the program, and
23 been the manager of the program and actually been in
24 place when some of this interruption occurred when we
25 were about to embark on the process; I think the staff

1 has done an outstanding job presenting to you here today
2 the diversity of complications involved with these
3 sites. Although --

4 COMMITTEE MEMBER WASHINGTON: But not ten years
5 worth of complications.

6 EXECUTIVE DIRECTOR LEARY: No, not ten years,
7 and I can't speak to all ten years. And as Martha
8 suggested, I think there was only, really only maybe one
9 site we've known about for ten years. But there's been
10 a significant history on all the sites.

11 I think part of the reason when there was a
12 holdup was when we had invoked the cleanup and abatement
13 order process for three sites and not for subsequent
14 sites was a number of things were occurring.

15 The past, the consideration and passage of 876
16 over at the legislature was about to ramp up or in the
17 middle of, and we were thinking that with the passage of
18 876 -- as a program manager I will suggest that I was
19 thinking at the time that with the passage of 876 a new
20 variety of options for the resolution of these sites
21 might be available to the Board outside the traditional
22 cleanup and enforcement, and something that the Board
23 wanted to consider.

24 The other complication, as staff have
25 suggested, is these tires were ostensibly put there for

1 a purpose, that is for the purpose of erosion control
2 under the blessing, supposedly, of a governmental agency
3 or a quasi-governmental agency. Does that ultimately
4 affect the property owner's liability in regards to
5 their liability to clean up those tires?

6 COMMITTEE MEMBER WASHINGTON: Is that a fact?
7 Do we know for sure if there is a government agency,
8 that this is --

9 EXECUTIVE DIRECTOR LEARY: No, but again, among
10 the complications. This was a belief widely held by
11 many of the property owners, and potentially some of the
12 same legislators.

13 COMMITTEE MEMBER WASHINGTON: If I want to be
14 responsible for something I will, I believe that this is
15 what they did it for.

16 EXECUTIVE DIRECTOR LEARY: Except that the
17 governmental agency who ostensibly had offered that
18 blessing was suggesting that they had, in fact, blessed
19 the disposal of those tires at this location, or the
20 placement of those tires for the purpose of erosion
21 control. And that belief was also held by many of the
22 legislators who were considering Senate Bill 876 that
23 was passing through the legislative process.

24 So the complications are a combination of
25 liability complications and legislative complications

1 that we wanted to consider that the Board, I wanted to
2 make sure the full Board had the full suite of options
3 with the passage of 876.

4 Another, and then we were hearing from
5 regulatory agencies that the removal of those tires
6 without some consideration of erosion control would
7 exacerbate the situation out there. That the Board, if
8 it were to step in, would make the environmental
9 situation worse.

10 I'm not suggesting that we held that belief
11 internally, but that again was another complication that
12 was circulating around these sites.

13 So we just, I think it's kind of -- what is the
14 traditional lawyer suggestion, you don't ask a question
15 that you don't know the answer to. Well, we didn't want
16 to proceed expeditiously on our traditional route for
17 the cleanup of these sites without considering all of
18 the potential complications, without making some effort
19 to resolve those complications.

20 And I think, and I think we're somewhat in that
21 same state of affairs. These complications still exist
22 as staff have suggested, and I think we just need to
23 consider all those as we go forward in the
24 decision-making.

25 Chair Medina has suggested that he wants to

1 move this thing forward. I know that is also the chair
2 of the Board's interest.

3 I think maybe the next responsible step at this
4 point would be to bring forward for the committee, and
5 ultimately the Board's consideration, a suite of
6 alternatives that would provide the Board with a menu of
7 possibilities in the resolution of these sites.

8 There was some discussion of the erosion
9 control issues, some discussion of liabilities and
10 arguments that could be made pro and con in support of
11 assessing liabilities against the property owners.

12 And maybe even some assessment of the political
13 consequences of Board decision-making, and who likely,
14 among our stakeholders in the dome, might be concerned
15 about how we ultimately resolve this thing.

16 So I would suggest that as a matter of course
17 of action that we, as staff, develop that suite of
18 alternatives for your consideration, and then we can
19 move forward at that point.

20 COMMITTEE CHAIR MEDINA: My response to that as
21 the chair would be to make it so. Let's get that done
22 so we can move forward on this.

23 MR. LEE: Chairman Medina, once again hearing
24 the words of our Executive Director, and obviously what
25 appears to be the will of the committee, I think the

1 staff would like to propose that we bring back the item
2 as Mark has described at the June committee and Board
3 meetings.

4 Again, we'd like a little bit of time to pull
5 all this together, and also to kind of clear the decks
6 with regard to the five year plan revision and the
7 reallocation which we have looming before us. So that
8 would be staff's proposal that we do to try to move this
9 forward.

10 COMMITTEE CHAIR MEDINA: Wonderful. And before
11 we move off of this topic, we have three speakers, and
12 I'll read 'em off in order in regards to this subject.
13 That's Robert Swift, Karen Gerbosi, Leandra Swent, and
14 we've been joined by Board Member Jones.

15 Board Member Jones, are there any ex-partes?

16 COMMITTEE MEMBER JONES: CRRC. I had to give a
17 luncheon speech and was able to follow Assemblywoman
18 Reyes who spoke at length about AB 240. So I was next.

19 I apologize to my fellow committee members for
20 being late, there was a timing issue, and it just didn't
21 seem appropriate for me to leave early, so I apologize
22 to all of you for being late.

23 MR. SWIFT: Good afternoon, committee chair
24 Medina and committee members. I'm Bob Swift, the LEA
25 for Sonoma County.

1 I've been dealing with the, with these waste
2 tire sites since 1993, and I've been working diligently
3 with the Resource Conservation District, the property
4 owners, and CIWMB, and other regulatory agencies in an
5 attempt to resolve this issue.

6 Now all of us are familiar, also aware of the
7 consequences of waste tire fire. And the elimination of
8 the environmental and public health threats is our first
9 and foremost concern; and that goes for everybody, the
10 property owners, RCD, myself as LEA, and you as the
11 Waste Board.

12 As the local enforcement agency, however, I'm
13 also aware of the consequences to the Sonoma County
14 farm. These farm families accepted these waste tires
15 prior to the enactment of the waste tire regulations for
16 erosion control purposes on the family farm. And at the
17 time they were taken in good faith to address the
18 erosion controls of these sites. And these waste tires
19 still provide that erosion control benefit to this day.

20 Three years ago the CIWMB, myself as the LEA,
21 and the RCD, and affected property owners met in Senator
22 Chesbro's office to discuss potential remediation
23 options for the Sonoma County legacy tire sites. And we
24 were directed to come up with some remediation options.

25 As a followup to that meeting I did come up

1 with a proposal for on-site encapsulation as remediation
2 action for these legacy waste tires. And the criteria
3 that I proposed were the following:

4 One, the impacted property is a legacy waste
5 tire site. These tires were deposited in gullies and
6 ravines for erosion control, and have not been added to
7 nor removed from site as a business activity since prior
8 to 1990, the enactment of the waste tire regulations.

9 Two, the purpose of the waste tires was to
10 control erosion, not waste tire disposal. At the time
11 of placement this was an accepted beneficial reuse to
12 control erosion on these highly erodible soils, and
13 soils that are prone to slides.

14 And third, in-place encapsulation of the
15 majority of the waste tires could be incorporated into
16 an enhanced erosion control system.

17 The proposed Sonoma County on-site
18 encapsulation remediation option would incorporate the
19 tires into a functioning erosion control system, which
20 would remove any danger of waste tire fire, which is our
21 primary concern.

22 Fourth, the current and proposed post closure
23 land use is non-irrigated open space. And I propose, in
24 addition with site security and signage, that a deed
25 restriction be placed on the deed, a deed notification,

1 and continued LEA monitoring of these sites, and any
2 necessary maintenance.

3 And finally, the -- oh, wait a minute, fifth
4 the, the fire hazard and mosquito breeding habitat needs
5 to be eliminated. And this can be done with on-site
6 encapsulation.

7 If these tires are buried under three or four
8 feet of soil, you're going to eliminate the fire hazard,
9 you're going to eliminate mosquito breeding.

10 This is the most cost effective option that is
11 available for remediation. And I think in these times
12 of financial insecurity that this is an option that
13 should be looked at more closely.

14 And finally, the support of all regulatory
15 agencies is required. Three years ago we had the
16 support of the U.S. Environmental Protection Agency, the
17 Regional Water Quality Control Board, California Fish
18 and Game, Sonoma County Drainage Erosion Control in
19 support of a demonstration project for on-site
20 encapsulation for an on-site erosion control system for
21 the Sonoma County sites.

22 COMMITTEE MEMBER WASHINGTON: What happened
23 with that?

24 MR. SWIFT: We're still waiting. As noted in
25 LEA advisory number 56, and this is regarding burn dump

1 sites, "The risk posed by these sites is effectively
2 controlled when a few straightforward precautions are
3 taken."

4 Now this LEA advisory allows for on-site
5 encapsulation of burn dump sites which are classified as
6 a hazardous waste; yet waste tires, which in their
7 unburned state are inert, have to be removed. And I
8 think that's not appropriate.

9 With on-site encapsulation of waste tires,
10 these were originally used on agricultural lands for
11 erosion control, not regulated at the time of placement,
12 inert in their unburned state, buried so that they pose
13 no fire threat, and thus incapable of becoming a
14 hazardous waste, and they buried also to eliminate the
15 mosquito breeding habitat, is the most cost effective
16 remediation option available.

17 Now, we all know that the primary concern with
18 exposed tires is the threat of fire and its potential
19 impact on public health safety and the environment.

20 Without question a remediation action is
21 required. We've been waiting ten years. We want,
22 everyone wants these sites remediated. We are asking
23 for remediation action to eliminate this threat and it
24 should be implemented expeditiously.

25 We've been dealing with these sites for ten

1 years now, and they still present a potential threat to
2 public health and safety and the environment.

3 However, during this time I've come to a better
4 understanding and appreciation of the circumstances that
5 led to the original placement of these waste tires, and
6 the consequences that removal with full cost recovery
7 being borne by the property owner would have on the
8 Sonoma County farmer.

9 And so I would like to see a remediation action
10 taken, we all would, but I think some leniency and
11 consideration should be given to the Sonoma County
12 farmer who took these tires in good faith, at the time a
13 beneficial reuse to control erosion, and reusing these
14 tires at the time which were not waste tires but were
15 just something to control erosion.

16 Thank you.

17 COMMITTEE CHAIR MEDINA: Okay. Thank you.

18 Next we have Karen Gerbosi.

19 MS. GERBOSI: Hello, I'm Karen Gerbosi, I'm one
20 of the property owners in Sonoma County.

21 I really don't have a lot to add to what Bob
22 said, but I just wanted to let you know that I'm here
23 today, and I support all the things that he said.

24 And the one thing that I do want to point out
25 is that Wilson Beebe is my uncle, and he never owned our

1 ranch, and we had nothing to do with his tires.

2 And just again to say that those tires have
3 been on our property now almost twenty years. That my
4 father had 'em placed there for erosion control in good
5 faith. And I know that there are more tires there than
6 are needed to do that but, you know, that's what
7 happened and that's where they are, and like that.

8 The other thing is that I very specifically
9 wanted to thank the Board members and their staff and
10 everybody that came down on the 13th of March and did
11 the field trip of our site and one of the other sites,
12 and I really appreciate your time.

13 And I, along with the other property owners, do
14 want to come to some resolution of this, but we have
15 been caught in a bind with different instructions from
16 different agencies, even different state agencies. So
17 we really have not known what to do to accomplish the
18 objectives that we seem to have before us.

19 Thank you.

20 COMMITTEE CHAIR MEDINA: Okay. Thank you. The
21 next speaker is Leandra Swent from the South Sonoma
22 County Resource Conservation District.

23 MS. SWENT: Good afternoon, and thank you for
24 letting me spoke. Again, I'm Leandra Swent, I'm the
25 district manager with Southern Sonoma County Resource

1 Conservation District.

2 And I just want to remind you that we represent
3 six of the landowners, we don't represent the landowners
4 in Valley Ford or the Wilson Beebe Ranch, those are
5 outside of our district, and also those landowners have
6 never come to us requesting help. The other six
7 landowners have requested our assistance and request
8 that we represent them to this Board. And we've been
9 doing that -- well, I started with the district in 1997,
10 this project was already well underway when I got there,
11 and I've been working on it since trying to get some
12 sort of result.

13 There are a number of things I want to add to
14 the staff report, some additional information that I
15 think is vital for the Board to have and I think this
16 committee to have.

17 Number one, Universal Portfolio actually has
18 two sites, the staff says that there's one, there's four
19 sites in the combined Universal Portfolio Silacci sites.

20 And in that Universal Portfolio, those two
21 sites, originally when they purchased the property it
22 was estimated that all four sites, Silacci and Universal
23 Portfolio had a total of 75,000 tires.

24 Mr. Buck, who is the manager at Universal
25 Portfolio, removed 115,000 tires a couple of years ago

1 from one site. You can barely tell that he's removed
2 those tires.

3 So there are well over the estimate I think
4 that your staff has made of 200,000 tires on those
5 sites. I just want to let you know that.

6 COMMITTEE MEMBER WASHINGTON: Leandra, what's
7 the other two sites that the staff didn't mention?

8 MS. SWENT: Well they are actually--

9 COMMITTEE MEMBER WASHINGTON: Are they on the
10 same property?

11 MS. SWENT: There's two parcels, I think --

12 Does staff know that? I think staff should
13 really.

14 MR. POSNER: On the Silacci site we are aware
15 that there are two separate piles so to speak, in fact
16 there's one lower, one upper. And my understanding is
17 that Hale or the North American Universal site, there is
18 also two separate piles, that's where the four comes
19 into place.

20 MS. SWENT: That is correct. And on the Sears
21 Point Raceway site, we believe there to be approximately
22 fifteen small sites, not five small sites. Some of them
23 are very difficult to access because of terrain. And
24 we've actually never seen all of them, but the site
25 manager will tell you he thinks there's about twelve to

1 fifteen sites.

2 COMMITTEE MEMBER WASHINGTON: Do you know how
3 many tires are on those sites?

4 MS. SWENT: They're fairly small, all of them
5 are fairly small sites. You know, this is just, it's
6 really difficult to guess, but I think probably a
7 hundred thousand estimate for the entire site is
8 probably close, maybe a bit more.

9 I did want to point out that Russ Ahlgrim, who
10 used the backhoe to cover his tires, did so because the
11 county required him to do immediate mosquito abatement
12 of his site, and that was recommended to him as his way
13 to do that, and that's why he covered those tires back
14 when he did.

15 Let's see. I did also want to point out that
16 when we provided to staff, the Resource Conservation
17 District put together corrective action plans back in
18 August of 2001, and we provided those corrective action
19 plans to your staff, and those were for all six sites,
20 not three sites. Some of them are very similar so they
21 look the same.

22 We treated the sites differently depending on
23 the terrain and the type of cleanup that we thought was
24 appropriate at that point in time for each site.

25 So I know that your engineer, Dana Humphreys,

1 has reviewed those sites and has made a staff report, or
2 a report back to staff. There has never been a response
3 from staff to RCD or to the landowners in relationship
4 to those corrective action plans.

5 Oh, I also really want to point out that the
6 idea of burial of the tires was something that we looked
7 at originally because of cost concerns, and especially
8 if the landowners were going to have to pay for this.

9 It was stated in the, when we talked about the
10 other site in Southern California that you just cleaned
11 up that it's approximately two dollars a tire to remove
12 them, and we're estimating, I mean my guess is we're
13 talking a couple of million tires total on all these six
14 sites. So we're talking a clean up of probably \$4
15 million if those tires are to be removed. And then
16 there's the restoration costs behind that.

17 So we had originally looked at encapsulating
18 those tires as a way to save money and get the project
19 done as quickly as possible.

20 We're open to talking about numerous different
21 ways of cleaning up the sites. But I also believe that
22 the regulatory agencies that are going to be involved in
23 the permitting process and the CEQA process, will
24 determine how these sites need to be cleaned up.

25 Some of the sites, especially the Flochinni

1 Ranch where the tires have been, the land has slipped
2 above them, they are under a lot of pressure, they are
3 very deep in some areas, to remove those tires is going
4 to be virtually impossible. The cleanup costs would be
5 horrendous because you're going to have to stabilize the
6 whole hillside before you remove those tires.

7 So I think there's a number of different
8 options that we can look at. I am very willing and very
9 able and just can't wait actually to sit down with your
10 staff and try to work out a design that we can start
11 through a permit process. And that permitting process
12 will allow other agencies to look at how these sites can
13 be cleaned up, and will allow them to buy off on the
14 cleanup, and allow them to buy off on whether or not
15 tires can stay in site, on site and be encapsulated or
16 buried.

17 Do you have a question?

18 COMMITTEE MEMBER WASHINGTON: You never had an
19 opportunity to sit down and talk with California
20 Integrated Waste Management staff about this?

21 MS. SWENT: Oh, we've talked with staff on a
22 number of occasions but because, and staff has changed.

23 Part of the breakdowns, you asked about why did
24 this process break down is because staff has changed so
25 much over the years that we have to, we have to be

1 reeducating staff about what the problems are on these
2 sites.

3 We were working with Fitz who was before Mark
4 Leary. At that point in time we had numerous meetings
5 with him. He was willing to bring the issue forward to
6 the Board at that point, it had never been heard by the
7 Board, and then he retired.

8 Mark came on board, and he started the process,
9 that's when the cleanup and abatement orders went out to
10 three of the landowners. It still had never been heard
11 by the Board.

12 And to date the Board of the Integrated Waste
13 Management has never heard this, it's stayed at the
14 staff level. And I don't believe that staff is able to
15 make this kind of a decision because it does go above
16 and beyond what the current regulations are for your,
17 for your, for the state agency. And it has to be made
18 at a Board level, and it's never been there.

19 And that's what our request is, is that the
20 Board make a determination of some sort. I mean at this
21 point it doesn't even matter what the determination --

22 COMMITTEE CHAIR MEDINA: Excuse me, the Board
23 will be doing that -- it's not staff that's going to be
24 making the decision, it's this Board that will be making
25 the decision, and it's not staff that will be taking the

1 decision, it's this Board that will be making the
2 determination on this.

3 And as you heard from Director Mark Leary, he's
4 prepared to move forward on this and get everything
5 ready for the Board to act in a timely manner.

6 COMMITTEE MEMBER JONES: Mr. Chair.

7 COMMITTEE CHAIR MEDINA: Board Member Jones.

8 COMMITTEE MEMBER JONES: Just, I mean we didn't
9 make a decision, but we did have a pretty lengthy
10 workshop in your neck of the woods where all the Board
11 members attended.

12 MS. SWENT: Right.

13 COMMITTEE MEMBER JONES: And that was for fact
14 finding so that we ended up with, to try to cut through
15 what had been reported to us as a lot of
16 miscommunication going back and forth, we gave everybody
17 the opportunity to speak to the Board.

18 So we've stayed, you know, we're pretty well
19 aware of what's going on up there. I think one of the
20 problems, one of the questions that I'm going to ask you
21 to think about in the future, all of these sites were
22 put in for erosion control. Erosion control is needed
23 because you've got free-flowing water through an area in
24 that adobe soil that's breaking apart and collapsing.

25 If it's your, if it's one of, your mitigation

1 would be to bury the tires whole and cover 'em with
2 dirt, you're still going to have water running through
3 that area which is going to run and take that dirt off
4 of those tires.

5 It's not, it doesn't make sense to me as "the
6 fix" because you're not going to the heart of what
7 caused the problem according to everything that we've
8 heard. And that's just the way dirt and tires work.

9 That's why tires don't go in the landfills
10 whole because you can never get 'em surrounded with a
11 material that will keep 'em in place.

12 And so think about it as you're between
13 meetings.

14 MS. SWENT: No, I understand. And I'm, you
15 know, one of the things that was included in our
16 corrective action plan was movement of water around
17 those tires so that they wouldn't go through the site.
18 That is part of the corrective action plan.

19 And I, you know, I understand the concerns of
20 this committee and the Board and staff, and I think the
21 landowners would be very happy to see all the tires come
22 out if it was financially feasible. That's always been
23 the concern is how is this going to be paid for,
24 because it is so expensive to get them out.

25 And at this point in time if there is financial

1 help in removing all those tires, I think the landowners
2 would be happy to see them go, but I think some are
3 going to have to remain just because of where they are
4 and how deeply embedded they are.

5 And I also just want to remind the Board that
6 the landowners have been very cooperative. And I think
7 you probably know by our efforts at the RCD level to be
8 here and be involved, that they want to see an answer to
9 this also, they want to see a determination to move
10 forward. And they have always given access to the
11 property. They will be willing to do so at any time and
12 willing to do so for cleanup.

13 So I want to remind you of that too.

14 COMMITTEE MEMBER WASHINGTON: One of the
15 things, Mr. Chair, that I'm happy about when I did go
16 out into the site where the Beebe Ranch owner, she did
17 mention on several occasions, I was glad to hear her
18 say, that she was willing to do what she has to do to
19 help the situation and I believe that's a starting
20 point.

21 That's a starting point when someone says,
22 look, I want to help get this taken care of, because it
23 looks to me like this is a situation where we're all
24 going to have to bear some responsibility and move
25 forward. Blaming one person to the next is not going to

1 help the situation, and it sounds like to me that's
2 what's been occurring for a little while, you know.

3 And at this point I'm not so interested in, so
4 much interested in as to whose thought it was as to how
5 we get beyond this situation we're in right now.

6 And I think with the owners and the ranchers
7 and everyone saying, look, we all going to bear the cost
8 of this and move forward, that's real enlightening to
9 hear. And I'm glad to hear the chair of our committee
10 say we are going to move forward with this.

11 I mean ten years is way too long in the scheme
12 of things, in the scheme of things it's a long time to
13 be dealing with an issue that this Board is ultimately,
14 by statute of the law, responsible for taking care of.

15 COMMITTEE CHAIR MEDINA: Thank you, Board
16 member Washington.

17 Thank you, Ms. Swent.

18 MS. SWENT: Thank you.

19 COMMITTEE CHAIR MEDINA: The Board has given
20 its directions and -- yeah.

21 BOARD MEMBER PAPARIAN: Just one more thought.
22 When staff comes back with the best suggestions they
23 have on how to proceed, don't take this necessarily as
24 the direction I want to go until I see the answer, but I
25 think one option obviously would be that instead, we may

1 get to a point where instead of handling them all ten
2 together, that we have to look at them one by one in
3 sequence and get, you know, get the quickest one or the
4 most threatening one to the environment done first, and
5 then get them.

6 I think one of the problems may be that we
7 face, at least since I've been on the Board, is we've
8 looked at them all as a whole, and come up with a big
9 picture solution to them all, and I think maybe that
10 possibly has bogged us down.

11 COMMITTEE CHAIR MEDINA: And there were already
12 three in the process already done.

13 MS. SWENT: Well I think that's very true. And
14 also in the permitting process some of the sites are so
15 similar that they can be bundled together where you
16 might do two or three sites at one time, and other sites
17 that are so distinctively different they would have to
18 go through that process separately anyway. And that's
19 how we would propose to go forward is with those sites
20 that are similar and easier to clean up first and get a
21 permit.

22 COMMITTEE CHAIR MEDINA: Again Ms. Swent, thank
23 you for your testimony. We do have another item coming
24 up, so at this point we're going to take a ten minute
25 break, and then we'll come back for the next item and

1 the final item that we have on the agenda.

2 (Thereupon there was a brief recess.)

3 COMMITTEE CHAIR MEDINA: This meeting is called
4 back to order.

5 Any ex-partes, Board members? Board Member
6 Jones?

7 COMMITTEE MEMBER JONES: No, sir.

8 COMMITTEE CHAIR MEDINA: Board member Paparian?

9 COMMITTEE MEMBER PAPARIAN: None.

10 COMMITTEE CHAIR MEDINA: Board member
11 Washington?

12 COMMITTEE MEMBER WASHINGTON: No, sir.

13 COMMITTEE CHAIR MEDINA: And I have none to
14 report.

15 Call the next item, please.

16 MR. LEE: Thank you, Chairman Medina. Board
17 item 41, committee item V is discussion and request for
18 direction on developing a revised five year plan for the
19 waste tire management program.

20 This item will basically continue the
21 discussion from the March 24th special workshop to bring
22 back to the committee's attention certain text revisions
23 that were, that the committee asked us to investigate
24 with Board Member Paparian.

25 And you know, with that brief overview again

1 I'll turn it over to Martha Gildart to run through these
2 specific items.

3 MS. GILDART: Good afternoon. There is a new
4 version of the plan that was mounted on the Board's
5 website, and it has the changes that were agreed to by
6 the committee at the last meeting and it has --

7 MR. LEE: Excuse me one minute, Martha. Like I
8 said, was it the committee chairman's intention we
9 handle the budget first and then move to the text
10 revisions?

11 COMMITTEE CHAIR MEDINA: Yes. What I would
12 like to do, Board members, is we had previously approved
13 fiscal years 03-04, 04-05, and then lastly we had done
14 05-06, 06-07, 07-08. So this portion of the budget I
15 would like a vote on today so that we can move it onto
16 the full Board.

17 So the first thing that I would like, Board
18 members, is a motion to approve the budget for all five
19 years as we have gone over them and send that to the
20 full Board for its approval.

21 So if I can have a motion in that regard?

22 COMMITTEE MEMBER JONES: Mr. Chair.

23 COMMITTEE CHAIR MEDINA: Board Member Jones.

24 COMMITTEE MEMBER JONES: Mr. Chair, I want to
25 move adoption of the budget for the total waste tire

1 management proposed funding for fiscal years 03-04
2 through 07-08.

3 COMMITTEE CHAIR MEDINA: Do I have a second?

4 COMMITTEE MEMBER PAPARIAN: Second.

5 COMMITTEE CHAIR MEDINA: Okay. I have a motion
6 to approve the proposed budget for fiscal years 03-04
7 through 07-08.

8 Call the roll, please.

9 COMMITTEE SECRETARY HARRIS: Jones?

10 COMMITTEE MEMBER JONES: Aye.

11 COMMITTEE SECRETARY HARRIS: Paparian?

12 COMMITTEE MEMBER PAPARIAN: Mr. Chairman, for
13 the reasons I stated last time, I don't think the budget
14 is consistent with the strategic plan, with the
15 direction of 876, or with the environmental directions
16 that the Board has consistently followed. I have to
17 vote no on it.

18 COMMITTEE SECRETARY HARRIS: Washington?

19 COMMITTEE MEMBER WASHINGTON: Aye.

20 COMMITTEE SECRETARY HARRIS: Medina?

21 COMMITTEE CHAIR MEDINA: And I vote aye on the
22 basis that I do find it consistent with the strategic
23 plan. I do find it consistent with the tire bill. And
24 I do find it in support of the environment.

25 So this budget is approved on a three to one

1 vote and will go before the full Board for
2 consideration.

3 MS. GILDART: All right. The first item, first
4 I was going to describe what the document has and what
5 it presents here.

6 We have tried to incorporate the comments and
7 changes as approved by the committee at the last
8 meeting. Those areas where staff was directed to work
9 with member Paparian's office are shown in sort of a
10 medium gray highlight.

11 Those areas which staff has tried to fulfill
12 direction given by the committee and appeared to have no
13 controversy are in a lighter gray highlight.

14 One of the things you will see we've added to
15 the document at the very back is the appendix C. We had
16 made presentations on sort of a summary of the
17 performance measure's baseline for the first year,
18 2001-2002. We've now incorporated it into the report as
19 an appendix.

20 It goes through each of the program elements
21 trying to show our accomplishments on those performance
22 measures. And the big change I want to bring to your
23 attention -- and I apologize for the print job, we're
24 having some difficulties with the electronic structure
25 of this document and it was printing back to front

1 upside down.

2 But anyhow, the table at the very end, that's
3 on page 76, 77, and it goes onto 78, is the table that
4 was requested. Once again, I believe member Paparian
5 asked to see an accounting of all the projects that were
6 in the first year of the five year plan, the monies
7 allocated in that plan, what was spent or what was left
8 over, how those got reallocated to new projects or to
9 supplement existing projects, and then total.

10 So you've got all those columns there in the
11 table with a grand total at the end to show that out of
12 the \$25,413,000 allocated in the five year plan for the
13 C&P, consultant and professional services line items, we
14 spent \$25,412,714.

15 If there are no questions on this table or
16 appendix C, then we'll go to the front of the report and
17 start on those text changes.

18 COMMITTEE CHAIR MEDINA: Well just to make
19 certain. In regard to appendix C and the table that Ms.
20 Gildart just went over, any objections to including
21 those in the report? If not, then we'll go ahead and
22 include those in the report.

23 COMMITTEE MEMBER JONES: Mr. Chair.

24 COMMITTEE CHAIR MEDINA: Board Member Jones.

25 COMMITTEE MEMBER JONES: I have no objection.

1 What I would like though is another copy. Mine is sort
2 of chopped, so I had to kind of do it off of a couple of
3 different things to try to, Jennine had to do a little
4 scrambling for me, but I didn't get that put in. So
5 maybe I got one, hold on.

6 MS. GILDART: This item has gotten so large as
7 an electronic database it's giving us difficulties in --

8 COMMITTEE MEMBER JONES: We found the
9 information when we went through but it wasn't in this.
10 So thanks.

11 Thanks, Mr. Chair.

12 MS. GILDART: I apologize. Okay. So going
13 back to the beginning of the document, the first change
14 appears on page Roman number IV of the executive
15 summary.

16 COMMITTEE MEMBER PAPARIAN: Before you get to
17 that. I mean I did talk at the last meeting about the
18 table of contents, that if we're unable to correct the
19 fundamental problems I see with the budget I'm planning
20 to put together a dissenting opinion which I presume
21 would be appendix E.

22 MS. GILDART: I believe it will be appendix D.
23 We did at one time have an appendix D, but we are
24 proposing, if the committee so approves, to fold the
25 information that was in that appendix into a new table,

1 and we'll point that out when we get to it. But yes,
2 appendix D.

3 COMMITTEE CHAIR MEDINA: I would not -- at this
4 point the issue of dissenting opinion, from my
5 perspective, is an issue that should be taken up by the
6 full Board. And so I would not designate any appendix
7 number to it until the full Board has taken up that
8 issue.

9 I don't know what the practice has been in the
10 past. I know that there's been a number of actions
11 taken by this Board in regard to a lot of plans, and I
12 know there's not always unanimity in regard to matters
13 that come before the Board, there are votes that are
14 taken. And so I don't know what the past practice has
15 been in regard to including a dissenting opinion. We're
16 not the Supreme Court. However, I'll leave the matter
17 up to the full Board.

18 So, and unless I hear from other Board members
19 that, if we need to take a vote on this particular issue
20 we'll take a vote on it. From my perspective I don't
21 see the need to include an appendix D that would say
22 dissenting opinion.

23 COMMITTEE MEMBER PAPARIAN: Well it's obvious
24 you don't dissent from, so you wouldn't want a
25 dissenting opinion.

1 I feel very strongly, I think I've made that
2 very clear how strongly I feel, more strongly than I've
3 felt about anything that I've had trouble with since
4 I've been on this Board.

5 I am planning, we are unable to correct, and I
6 think it's still possible to correct the budget, if we
7 are unable to correct it I will produce a dissenting
8 opinion. I think it will be in the best interest of the
9 Board to have it within this document rather than in
10 some other form some other place.

11 COMMITTEE CHAIR MEDINA: Well again, from my
12 perspective, that's a call for the Board members to
13 make, all six Board members. That's not for me to make
14 as chair of this committee. And I can poll the other
15 Board members to see how they feel about it.

16 Board Member Jones.

17 COMMITTEE MEMBER JONES: Mr. Chair, I've sat on
18 this Board for six plus years, I've been on the losing
19 end of votes, I've been on the other end of votes. I've
20 been on six 0's, four twos, and I've never, ever seen a
21 dissenting opinion.

22 We're a body. We are a Board body. And the
23 last time I read the statutes it said that our decisions
24 would go forward on a four plus vote.

25 And you know, I would not support it. I think

1 it is one of the most dangerous precedents to be set.
2 And I think it's important that we all honor that we
3 have differences of opinions. I think, but I don't
4 think anybody has discounted that everybody here is
5 entitled to a difference of opinion. But it's the
6 majority of this Board, or actually the four of the six
7 that puts out a report.

8 And we made it very clear when the tire subsidy
9 report came forward and you had a problem with it, we
10 said we would not call that a report of the Board but
11 just a report accepted by the Board to culminate a
12 contract. And that was a, that was, all the members did
13 that for you and didn't have any problem with it.

14 But this is a plan that is a revision of an
15 existing five year plan that was put together by six
16 equally as impassioned people as the six that now sit on
17 this Board. And it's -- I will support -- maybe it's us
18 this time.

19 (Thereupon there was a brief recess while a
20 fire drill was conducted.)

21 COMMITTEE CHAIR MEDINA: This meeting is called
22 back to order.

23 And as I recall, the person that had the floor
24 next was Board member Washington. And it's just, again,
25 to get a sense of the Board in regard to adding appendix

1 D which would be dissenting points.

2 So Board member Washington, if you can share
3 your sentiments in that regard.

4 COMMITTEE MEMBER WASHINGTON: Thank you, Mr.
5 Chair. I guess for me it's, I'm trying to get the sense
6 of the Board member who has been appointed to this
7 Board, like the five of us have and, you know, what
8 abilities. And I guess I'm trying to get to the, you
9 know, if a Board member wants to put something on the
10 record, you know, is that feasible, do it make sense?
11 And I had an opportunity to go outside and think for a
12 minute in terms of not so much as to what the Board
13 member wanted to put on it, not so much as to whether
14 the Board member has the ability to put something on,
15 but what he has to put on.

16 I too had a chance to think about all the
17 boards I sit on, I'm the chair of a board, of a
18 foundation now. And you know, many times, even as
19 chair, sometimes the Board members don't go in the
20 direction that I go in. And I have never seen where
21 we've added a dissent opportunity or a vote, a
22 dissenting vote in terms of opinion as a part of the
23 document.

24 Now I don't know if Mr. Paparian have the
25 opportunity to do so without being attached to this

1 document, and I think that's the direction we want to
2 go. I think he wants it a part of this document and
3 I've just never seen it done. We couldn't even do that
4 in the legislature.

5 So I think I'll follow the direction of the
6 chair on this one in terms of what direction we want to
7 go in. Is it setting precedents? Those are the things
8 that I've considered in this whole matter.

9 COMMITTEE CHAIR MEDINA: I think that it's --
10 thank you, Board member Washington.

11 It's in the record that Board member
12 Washington, I mean Board Member Paparian does not agree
13 with our support for the plan, and he has, he can
14 register his opinion by voting no on the plan. That's
15 part of the official record. And all the remarks that
16 he has made in regard to the plan, that's also part of
17 the public records that anyone can look up, that would
18 be in the transcript. So it's already, it's already
19 recorded.

20 So, and with that, let me just say that in
21 regard to the text of the five year plan, we spent at
22 the last meeting, we spent over three hours just going
23 over the Board member's suggestions to the text of the
24 plan. We adopted a good many of those remarks, and the
25 only thing that remains to be cleared up today, and

1 those are some of the areas where there needed to be
2 some clarification.

3 And in that regard, Board Member Paparian was
4 going to get together with staff, go over those areas
5 that needed clarification, and then come back to us at
6 this meeting. We just took here one of those in regard
7 to the, to one of the tables, one of the appendices.

8 And so now we can go through and, only over
9 those areas that needed clarification and work those in
10 there. So if we can continue on page four, that's where
11 we were when we left off.

12 MS. GILDART: Okay. This is Martha Gildart.

13 We're on page Roman number IV. The first point
14 where there was an amendment is in goal number four
15 where we blended together some language that had been in
16 the original plan plus a proposal from Board Member
17 Paparian. So it now reads,

18 "To the greatest extent
19 possible, this plan will enhance
20 alternatives to the disposal of only
21 waste tires originating in California
22 to ensure a robust tire recycling
23 infrastructure for the waste tire
24 industry, and enhance alternatives to
25 disposal of California waste tires."

1 The next change were the addition of goals
2 seven, eight and nine. And these also are a merging of
3 language or, in some instances, new language.

4 Number seven had been approved by the
5 committee, but staff was directed --

6 COMMITTEE MEMBER JONES: Which page?

7 COMMITTEE CHAIR MEDINA: Roman number IV.

8 MS. GILDART: Page number IV in the
9 introduction, in the executive summary.

10 COMMITTEE MEMBER JONES: Thank you.

11 MS. GILDART: And we're looking at the gray
12 shaded areas.

13 Goal seven,

14 "The Board will enhance
15 existing efforts to improve the
16 environment along the California
17 Mexico border through establishment
18 of a cooperative relationship with
19 all levels of government along both
20 sides of the border in addressing
21 border specific concerns, including
22 the stockpiling of waste tires near
23 border cities, hauling and transport
24 of tires, and sharing and
25 disseminating environmental education

1 materials."

2 Goal eight is a new one, and I have a slight
3 amendment I'd like to propose to bring it in align with
4 the structure of the other goals.

5 "The Board will strive to
6 increase state agency purchases of
7 tire-related products, including
8 longer life tires, retread tires,
9 recycled content tires, and products
10 made from recycled tire materials."
11 And then goal number nine,

12 "The Board will work with other
13 states, localities, and interested
14 parties and the tire industry on
15 product stewardship issues relating
16 to tires in a manner similar to
17 dialogues that have taken place or
18 have begun for other products."

19 And we have here the further sentence,
20 "Progress will be reported to the Board biennially."
21 But that may perhaps be better moved to the performance
22 measure section.

23 Are there any comments or questions on these
24 goals?

25 COMMITTEE CHAIR MEDINA: Seeing no objection,

1 we'll go ahead and adopt those.

2 COMMITTEE MEMBER JONES: Mr. Chair, with her,
3 the Board's intent or however it was, the Board will
4 strive to --

5 COMMITTEE CHAIR MEDINA: Yeah.

6 COMMITTEE MEMBER JONES: Okay. No problem.

7 MS. GILDART: Okay. The next change is on page
8 one of the introduction and it continues onto page two.
9 And this was where we were folding in more of the goals
10 and objectives from the strategic plan.

11 The majority of the strategic plan elements
12 have been folded into individual program elements, but
13 there were some issues that seemed to be overarching all
14 the program elements, so we've inserted 'em here in the
15 introduction. The statement is,

16 "The Board's strategic plan
17 also addresses issues on
18 environmental justice, state agency
19 procurement of recycled content
20 products, and joint waste management
21 efforts along the California Mexico
22 border."

23 Product stewardship has become an increasingly
24 important priority for the Board. In 2002 a national
25 agreement on product stewardship for carpet was reached

1 between the carpet industry and the Board. Discussions
2 on product stewardship for architectural coatings and
3 electronics are progressing.

4 The goal of the Board is to initiate a national
5 discussion of product stewardship for tires working with
6 other states, tire companies, and interested parties.

7 Recognizing that these efforts can take several
8 years, it is the initiation of the dialogue which will
9 be started in the coming two year period.

10 With the recent passage of legislation on
11 environmental justice and the related increased
12 attention placed on the issue by the California
13 Environmental Protection Agency and the Board, the tire
14 program has been applying environmental justice
15 principles to its projects.

16 An evaluation will be conducted of the
17 potential environmental justice implications of the
18 location of tire recycling facilities, the illegal sites
19 proposed for remediation, and amnesty day events. The
20 evaluation will address environmental justice concerns,
21 and it will incorporate stakeholder and community
22 concerns and input.

23 The Board will review this material and take
24 any appropriate action.

25 COMMITTEE CHAIR MEDINA: I'd like to make a

1 recommendation in this area.

2 Number one, I would like to see on page Roman
3 number IV, under number six, to address environmental
4 justice specifically in that number six as a goal so
5 that it becomes a goal. And if we can have the
6 appropriate language because, just as the introduction,
7 it's a good statement of principle, but I think if we're
8 going to be serious about establishing it as a goal then
9 we need to include it as a goal. And we already have a
10 number six that pretty much describes environmental
11 justice.

12 MS. GILDART: Okay. We could try,

13 "To implement this plan in a
14 manner consistent with the principles
15 of environmental justice and ensures
16 that all -- how do we say that? --
17 that peoples of all races, races,
18 incomes, and cultures are treated
19 fairly."

20 Would that, and then we can drop the second
21 part of that existing sentence. "To implement this
22 plan."

23 COMMITTEE CHAIR MEDINA: Go ahead just with
24 your introduction and then continue with the rest of the
25 language.

1 MS. GILDART: So it would be, "To implement
2 this plan in a manner consistent with the principles of
3 environmental justice." Stick that in there?

4 COMMITTEE CHAIR MEDINA: Yes.

5 MS. GILDART: "And ensures that," and go on?

6 COMMITTEE CHAIR MEDINA: Same as it was. And
7 on the product stewardship, if we can tighten that up a
8 little?

9 MS. GILDART: Okay. Okay. We could start out,
10 "The Board is increasing its efforts on applying the
11 principles of product stewardship to reduce --" I think
12 this is, I pulled something out of the strategic plan,

13 "To reduce the environmental
14 effects of products throughout their
15 life cycle. The Board intends to
16 initiate a national discussion of
17 product stewardship for tires in the
18 next two year period."

19 So that captures the first and second parts of
20 that original language. But it paraphrases more the
21 strategic plan discussion on product stewardship.

22 Does that sound -- I can read that again.

23 COMMITTEE MEMBER JONES: Does that work, Mike?

24 COMMITTEE MEMBER PAPARIAN: Why don't you read
25 it again? I'm not quite sure I understood it all.

1 MS. GILDART: Under the introduction statement
2 where it talks about the Board's strategic plan it also
3 addresses issues on environmental justice, the state
4 agency procurement, and the issues along the border, and
5 go on to say that,

6 "The Board is increasing its
7 efforts on applying the principles of
8 product stewardship to reduce the
9 environmental effects of products
10 throughout their life cycle. The
11 Board intends to initiate the
12 national discussion of product
13 stewardship for tires in the next two
14 years."

15 Rather than bringing in the carpet example, for
16 instance, in the middle there.

17 COMMITTEE CHAIR MEDINA: And you took that out
18 of the strategic plan?

19 MS. GILDART: The first sentence from the
20 strategic plan, the second sentence is capturing the
21 last sentence here in this language.

22 COMMITTEE MEMBER PAPARIAN: In your view would
23 it be carried out in the way that's described here,
24 working with other states, interested parties, and tire
25 companies in a manner similar to what's been done with

1 other product categories?

2 MS. GILDART: For it to be a national
3 discussion --

4 COMMITTEE MEMBER JONES: Yes.

5 MS. GILDART: -- I believe it would need
6 extensive participation from such parties. If you would
7 like to enumerate them we could do that.

8 COMMITTEE MEMBER PAPARIAN: I just want to make
9 sure that I'm understanding clearly. So it's not a
10 discussion, you know, it's not an academic discussion
11 about the product stewardship issues, but it's an actual
12 product stewardship effort initiated.

13 The way you had read the new language it could
14 be interpreted as just some national, you know, phone
15 calls or attending a conference or something talking
16 about product stewardship.

17 COMMITTEE CHAIR MEDINA: I see no problem
18 adding states, tire companies, and --

19 MS. GILDART: So we could say, "Initiate a
20 national discussion with other states, tires companies,
21 and interested parties."

22 COMMITTEE MEMBER PAPARIAN: On product
23 stewardship for tires.

24 COMMITTEE MEMBER JONES: That will work.

25 MS. GILDART: Okay. And then you had the same

1 request on that environmental justice.

2 COMMITTEE CHAIR MEDINA: Yes, to put that as
3 the goal.

4 MS. GILDART: As the goal.

5 COMMITTEE CHAIR MEDINA: Number six is already
6 the goal, basically it has environmental justice
7 language.

8 COMMITTEE MEMBER PAPARIAN: But this paragraph
9 will still be here so it's clear we'll meet the goal.

10 COMMITTEE CHAIR MEDINA: I think it's kind of
11 redundant if we have it as a goal.

12 COMMITTEE MEMBER PAPARIAN: What this paragraph
13 says is that we'll take a, we'll take a look at the
14 environmental justice implications of the tire program
15 and get a report back to the Board about whether there
16 are any issues that are out there that ought to be
17 addressed. And then the Board will have a chance to do
18 that.

19 So it's, I think if it's not here, what I just
20 described won't happen.

21 MS. GILDART: Would you like me to read number
22 six again just so you see the flow?

23 COMMITTEE CHAIR MEDINA: Yeah.

24 MS. GILDART: Goal six says now,
25 "To implement this plan in a

1 manner consistent with the principles
2 of environmental justice that assures
3 that people of all races, cultures,
4 and incomes are treated fairly, have
5 equitable access to environmental
6 benefits, and that no segment of the
7 population bears a higher share of
8 risks and consequences of cumulative
9 exposures or impacts of environmental
10 pollution."

11 And then this paragraph requires,

12 "An evaluation to be conducted
13 of the potential environmental
14 justice implications of the location
15 of tire recycling facilities, the
16 illegal sites proposed for
17 remediation, and amnesty day events.
18 The evaluation will address
19 environmental justice concerns and
20 incorporate stakeholder and community
21 input."

22 So those are some more specific actions to
23 take, if that is --

24 COMMITTEE CHAIR MEDINA: Can any of those be
25 fitted in under performance measures?

1 MS. GILDART: Let's see.

2 COMMITTEE CHAIR MEDINA: How are we going to
3 measure, environmental justice is now a goal, number
4 six, so how are we going to measure its effectiveness?
5 Can we not do that through performance measure?

6 MS. GILDART: There is a new performance
7 measure, if we wanted to jump ahead to page nine. And
8 it says,

9 "In conjunction with other
10 environmental justice efforts of the
11 Board, the tire program will continue
12 to inform the public of proposed
13 actions, attempt to overcome barriers
14 to meaningful participation in the
15 decision-making process, and provide
16 technical assistance to communities
17 on potential health and environmental
18 impacts of tire related activities."

19 COMMITTEE CHAIR MEDINA: Yeah, I would rather
20 have it in this section as a performance measure,
21 something that we can measure rather than have it, hang
22 it by itself just in an introduction.

23 MS. GILDART: Okay. There was, let's see, page
24 ten, I think we could add it at the end of page ten
25 because there we talked about some other outreach, a

1 requirement to include the principles of environmental
2 justice in all the tire program activities, you know,
3 our grants and contracts, and then try and do an
4 accounting of the remediation sites and what sorts of
5 neighborhoods those are in.

6 So we could put those in as performance
7 measures there on page ten to say something about
8 tracking the Board's tire site remediation efforts to
9 determine the percentage in low income or minority
10 neighborhoods, something like that.

11 COMMITTEE MEMBER PAPARIAN: I'm lost in a
12 couple of ways. One, I think we're losing the intent of
13 that language that was there.

14 And secondly, my page ten says enforcement and
15 regulations relating to the storage.

16 MS. GILDART: That's page 11.

17 COMMITTEE MEMBER PAPARIAN: Have you got
18 another copy of the one version you were working off of?
19 Because this is what was e-mailed to me.

20 MS. FRENCH: There was hard copies delivered on
21 Friday.

22 COMMITTEE MEMBER PAPARIAN: If you can get me
23 another copy of that?

24 COMMITTEE MEMBER JONES: I have enforcement on
25 page 11.

1 COMMITTEE CHAIR MEDINA: So do I.

2 MS. HARRIS: They gave it to us in the orange
3 folders.

4 (Thereupon there was a discussion off the
5 record.)

6 COMMITTEE MEMBER PAPARIAN: And then back, I
7 think it's, I think we're losing some of the meaning of
8 the language on page two. I think what Mr. Medina was
9 asking is if you can move that into the goal, maybe that
10 and the product stewardship should be the goals for the
11 performance measures on your page ten.

12 MS. GILDART: The language on page two though
13 does not really include performance measures where there
14 is something that's measurable by some certain time or
15 process, so I was trying to capture what we would be
16 tracking.

17 COMMITTEE MEMBER PAPARIAN: Okay. Let me see
18 if I can be clear. On product stewardship it would be,
19 "Initiation of the effort with other states and
20 stakeholders," okay, that's a measurable.

21 And on environmental justice it would be, "The
22 evaluation of the program and then presentation of that
23 evaluation to the Board for possible action." Those are
24 the measurables.

25 MS. GILDART: Obviously the presentation of the

1 evaluation and having that completed is a performance
2 measure. Typically there would be, within a plan then,
3 the objective to actually conduct it. The conduct of
4 such an evaluation is not usually in the performance
5 measures, so I was just trying to split that into two
6 parts.

7 The performance measure is did we conduct it or
8 not. But somewhere we need, in the plan, the objective
9 is to have such an evaluation done. And that's all, I'm
10 just trying to split those into two steps.

11 COMMITTEE MEMBER PAPARIAN: So your suggestion
12 would be to leave the language kind of as we talked
13 about it on page two, and then have a new six and seven
14 on page ten. Six being the initiation of the product
15 stewardship dialogue with other states and interested
16 parties.

17 And seven being the preparation of the, the
18 preparation of the evaluation and presentation to the
19 Board of that material related to environmental
20 justice.

21 MS. GILDART: We could do it that way. What I
22 had proposed was six and seven would both deal with
23 environmental justice, but we can blend the two together
24 and then just do product stewardship as six.

25 I was splitting out for things to measure for

1 the environmental justice was the inclusion of those
2 principles in our grant and contract activities, so that
3 when we provide monies to people to, you know, implement
4 the effort, they would be required to do so under the
5 principles of environmental justice.

6 And so inclusion of those principles in the
7 grant and contracting process I thought was a measurable
8 that would capture what you want in getting our efforts
9 out into the world.

10 Then the second performance measure I thought
11 could be actually tracking our remediation program to
12 see how the site cleanups were conducted and where they
13 were, with the idea that these are an environmental
14 benefit for the community in which they occur.

15 Now if those are not adequate performance
16 measures then we can develop something else. But if you
17 want to include the evaluation of the tire program's
18 conduct, then we can put it here also with a statement
19 in the planning part that would do it. You separate the
20 two.

21 COMMITTEE MEMBER PAPARIAN: That sounds fine.

22 MS. GILDART: Okay.

23 COMMITTEE MEMBER PAPARIAN: To do it that way,
24 to include all, I guess it's now three plus the product
25 stewardship.

1 COMMITTEE CHAIR MEDINA: Okay, next item.

2 MS. GILDART: Let me just make a note here so I
3 know.

4 MR. LEE: While Martha is writing down that
5 direction, so we make sure we have it clear let's go on
6 to page seven.

7 The issues there on page seven and eight were
8 basically with regards to the hierarchies to be utilized
9 in the tire plan. There was language suggested by Board
10 Member Paparian and then some alternate language
11 recommended by the legal office and supported by program
12 staff.

13 You know, basically we need to hear the
14 committee's pleasure with regards to how the heirarchy
15 language is to be presented in the plan.

16 COMMITTEE CHAIR MEDINA: My inclination at this
17 point would be to go with what the legal office has
18 recommended.

19 COMMITTEE MEMBER JONES: That works for me.

20 COMMITTEE MEMBER PAPARIAN: I'd just as soon
21 stick to my original, especially in terms of the market
22 development language in 876 it might be more
23 appropriate. I recognize I might be outvoted here.

24 MS. GILDART: Do we want to work our way
25 through these and then come back to the ones where there

1 was an issue?

2 COMMITTEE CHAIR MEDINA: Let's move forward
3 with what the legal office has recommended. All of this
4 will be reviewed by the full Board at any rate. So if
5 they wish to go with Mr. Paparian's version over the
6 legal office version, that's the Board's prerogative.
7 Our objective here is just to get something before the
8 full Board.

9 COMMITTEE MEMBER JONES: Right.

10 COMMITTEE CHAIR MEDINA: And it's my intention
11 to get something before the full Board at our very next
12 meeting, and to get through this document today.

13 MS. GILDART: Okay. Then on page eight going
14 onto nine we've repeated the goals, and any of the
15 modifications that we agreed to on page Roman number IV
16 we will incorporate here. So I don't think I need to
17 read through those again.

18 At the bottom of page nine and going onto page
19 ten is where we've inserted performance measures for
20 these overarching objectives.

21 Would you like me to read those?

22 COMMITTEE CHAIR MEDINA: If you would, please.

23 MS. GILDART: Okay. The first performance
24 measure,

25 "In conjunction with other

1 environmental justice efforts of the
2 Board, the tire program will continue
3 to inform the public of proposed
4 actions, attempt to overcome barriers
5 to meaningful participation in the
6 decision-making process, and provide
7 technical assistance to communities
8 on potential health and environmental
9 impacts of tire related activities.

10 "Two. Development by January,
11 2005 of the waste tire abatement plan
12 with California and Mexico
13 authorities, focusing on stockpiles
14 posing an immediate fire threat to
15 the environment."

16 Since this draft was written I've become aware
17 of a document that I thought it might be useful to cite
18 here, and that is, I've got to get the name here, the
19 "Border 2012 U.S. Mexico Environmental Program" which
20 has a goal three, objective three of dealing with tire
21 piles.

22 So an alternate wording could be,
23 "In concert with the California
24 Environmental Protection Agency and
25 the Border 2012 U.S. Mexico

1 Environmental Program, the Board will
2 develop a waste tire abatement plan
3 with California and Mexico
4 authorities."

5 So our thought was to tie it into this larger
6 effort.

7 COMMITTEE CHAIR MEDINA: From my perspective
8 that's more appropriate. We do not want to get ahead of
9 the agency secretary with regard to this issue. There
10 is an agreement that has been signed, for the first time
11 waste tires are on the table. And as part of that
12 effort there will be, we will be working in conjunction
13 with the, with Cal EPA to develop such a plan.

14 MS. GILDART: Any other comments? Hearing
15 none, the third performance measure,

16 "Development by January, 2004,
17 of a training program tracking system
18 focusing on cross border waste tire
19 hauling. Also conduct tire hauler
20 training workshops with Californian
21 and Mexican stakeholders."

22 COMMITTEE CHAIR MEDINA: That's consistent with
23 what we're already doing, isn't it?

24 MS. GILDART: Correct. It's just trying to set
25 a timeframe that we'll get that training rolled out.

1 Performance measure four,

2 "Development by January, 2005,
3 of a plan to encourage greater use of
4 recycled content tire products by
5 state and local agencies, and assure
6 that this plan aligns with the work
7 of the state agency "Buy Recycled"
8 campaign.

9 Five,

10 "Conduct periodic waste tire
11 roundtable discussions with the
12 stakeholders to review progress of
13 the waste tire program, solicit input
14 from stakeholders, and answer
15 questions."

16 So, a little weak.

17 COMMITTEE MEMBER JONES: Mr. Chair.

18 COMMITTEE CHAIR MEDINA: Board Member Jones.

19 COMMITTEE MEMBER JONES: And I don't, I'm not
20 sure, was that, did we -- was that one we had all agreed
21 to? I thought so, I just wanted to make sure.

22 MS. GILDART: Yeah, that was one. All right.

23 On the new document, the next area of discussion is on
24 page seventeen.

25 This was one of the performance measures. The

1 original language had been changed by staff to drop the
2 20 percent per year. Board Member Paparian had proposed
3 keeping that in. The compromise language would be to
4 say,

5 "Increase the number of
6 inspections conducted by program
7 staff and local agency staff by 30
8 percent over the next three years."

9 We wanted to look at the broader timeframe
10 because our efforts in rolling out the local enforcement
11 grant program we feel will achieve large increases in
12 the first year or two, but there may be a trailing off
13 thereafter slightly. And rather than stick to a rigid
14 20 percent per year, we thought a three year period was
15 a better measurement.

16 Any comments?

17 COMMITTEE CHAIR MEDINA: I think the 30 percent
18 over the next three years is appropriate.

19 MS. GILDART: Oh, and I, just to point out,
20 this wasn't an issue at the last committee meeting, but
21 we folded in language just above that on the CDAA
22 assistance, there's the gray shading that says,

23 "Any future funding for CDAA
24 assistance could be included in the
25 enforcement grant allocation or

1 through the annual reallocation item
2 of unexpended tire funds."

3 So that was just to solve that issue.

4 Okay. If you turn the page to eighteen. Under
5 performance measure seven we made the change to add,
6 "Enhance project selection and dissemination of results
7 per the committee direction."

8 There's language that's been inserted here as
9 objective and measurement criteria that came from Board
10 Member Paparian.

11 "The objective: The Waste
12 Board seeks to assure that there is
13 an integrated approach to permitting,
14 inspection, and enforcement that
15 results in consistent application of
16 all waste management standards and
17 requirements.

18 "The Board further strives for
19 one hundred percent compliance with
20 state minimum standards at each waste
21 tire facility operation in the state.

22 "Measurement criteria: A
23 review will be conducted to tire
24 permitting and enforcement programs
25 to ensure consistency with other

1 Board permitting and enforcement
2 activities. Attention will be
3 focused on issues of inspection
4 frequency, standards applied to
5 facilities, regulatory tiers and
6 other items as appropriate. The
7 review will be presented to the Board
8 for possible action."

9 COMMITTEE CHAIR MEDINA: I think those are good
10 statements, however, I don't see them as a measurement,
11 as a measurable objective. I think, "The Waste Board
12 seeks to -- " that's good in the introduction. As a
13 measurable objective, I don't see that as a measurable
14 objective. What is it we're measuring?

15 MR. LEE: Chairman Medina, this is one of the
16 comments that was raised by Board Member Paparian. I
17 think it was one of the only ones that I think that we,
18 that staff, you know, couldn't reach an accommodation
19 from our standpoint with him.

20 And again, I guess my concern is that this
21 would potentially, there was an issue being raised I
22 guess in the Permitting and Enforcement area or the
23 permitting program that I think are separate and
24 distinct from what we are are doing in the tire program.

25 We've just gone through a very exhaustive

1 regulatory program to get regulations in place. My
2 concern here is that some of this language could be
3 construed as basically reconsidering, you know, the work
4 that's been done in that particular area. And, you
5 know, from the staff's perspective, that would not be
6 necessary.

7 So again, I'd like to make sure, you know, if
8 this is indeed the directive of the entire committee
9 before, you know, staff takes initiative in this
10 particular area.

11 COMMITTEE MEMBER PAPARIAN: Would you like me
12 to try to explain it, Mr. Chairman?

13 COMMITTEE CHAIR MEDINA: If you would.

14 COMMITTEE MEMBER PAPARIAN: If you recall, in
15 the C&D regs we just adopted some new approaches to
16 facilities containing C&D. We are assuring that at
17 fairly low levels of tonnage there are monthly
18 inspections.

19 We're assuring certain fire control items.

20 We're ensuring certain things as far as public
21 notification of proposed permits and so forth.

22 I think it's worth taking a look at our tire
23 regulations to make sure that either we're consistently
24 applying the regulations for facilities that pose
25 comparable threats to the environment. Or, if we are

1 not regulating things in a comparable way, let's know
2 that and, you know, decide that for some reason we're
3 not going to do that.

4 But I think if you look at, if you look at some
5 of the tire facilities, they pose a comparable threat to
6 the environment as a C&D facility. And for that reason
7 then, I think we ought to either regulate them
8 comparably or understand why we're not regulating them
9 comparably.

10 And so this would establish that, it would have
11 the staff come forward with information about where
12 we're regulating comparably and where we're not, and
13 then allow the Board to decide whether it wants to
14 follow up and take further action.

15 COMMITTEE MEMBER JONES: Mr. Chair.

16 COMMITTEE CHAIR MEDINA: Board Member Jones.

17 COMMITTEE MEMBER JONES: I think I understand
18 the intent, but I think what we can't lose in this
19 discussion is what's the appropriate level of
20 inspection.

21 I mean we had testimony from Justin Malan that
22 restaurants average, you know, two to three inspections
23 a year where solid waste facilities average one a
24 month. C&D and MSW are different than tires.

25 There's a plan, when these places get permitted

1 they've got to have a tire storage plan in place as to
2 how many tires are on site, how they're stored, what's
3 the fire protection in place, what's this and that.
4 They're not, those rules are set up to make sure we
5 don't have vector harborage, we don't have garbage, we
6 don't have any of those things.

7 So I think that the appropriate level is what
8 we're trying to achieve with our local grants that are
9 going to go out at five million bucks or 4.8 or whatever
10 it was we approved to get people into these facilities a
11 lot more.

12 And I think as a result of the performance
13 standards based on that, on that effort we're going to
14 know if we need to do more.

15 I mean, SB 876 clearly took into consideration
16 the problem with unpermitted facilities and tried to
17 come up with an appropriate level.

18 So I don't think we've got to inspect 'em as
19 often as a solid waste facility, but I just think that
20 we've got to be able to see if our new system of funding
21 locals pays off with a good job by the Highway Patrol
22 and inspectors, and see where we come.

23 And then I think we're able to get that
24 information and see where we have to go to our next
25 steps.

1 COMMITTEE MEMBER PAPARIAN: And this would get
2 us that information. I think, from what I understand,
3 in some cases we have C&D facilities that will be
4 inspected monthly, and comparable volumes associated
5 with tire facilities that might be inspected once every
6 two to two and a half years.

7 If there's reason to do it differently, if
8 there's reason for the tire facilities to be handled
9 differently than C&D facilities, what this item would do
10 is bring that forward to the Board and let the Board
11 understand that and then make that decision to allow
12 that to continue.

13 But I think that in the C&D area we've, we've
14 charted some new territory in terms of what we want to
15 have happen with facilities that threaten the
16 environment.

17 And what this item would do, what I'm
18 suggesting we do is we take a look at the tire program,
19 see where there are similarities and differences, and
20 bring those forward to the Board for consideration.
21 This doesn't require action until the Board actually
22 looks at those and decides, hey, we want to do things
23 different --

24 COMMITTEE MEMBER JONES: No, we --

25 COMMITTEE CHAIR MEDINA: Excuse me, I'd like

1 to --

2 MS. GILDART: I'd like to just add that --

3 COMMITTEE CHAIR MEDINA: Here's my concern that
4 has to do with consistency. This is under performance
5 measures. If you read it, performance measures one
6 through six, it says, increase, track, track, track,
7 increase.

8 But now we get into this and it says, the
9 language deviates, the Board seeks to assure that there
10 is, a review will be conducted, and so that's not
11 consistent with the language above in terms of a
12 performance measure.

13 So I think we need statements that basically
14 mirror what we, that are consistent with what we have
15 above.

16 COMMITTEE MEMBER PAPARIAN: Okay. So if we
17 take that measurement criteria and make it, the second
18 paragraph there -- the objective was never intended to
19 be part of the measurement criteria, it was intended to
20 be placed somewhere else, I think it just got cut and
21 placed it there.

22 MS. GILDART: We can place it on page thirteen
23 with the other objectives if that would fit.

24 COMMITTEE MEMBER PAPARIAN: And then the
25 measurement criteria would be to, "Conduct this review

1 and present it to the Board for possible action."

2 COMMITTEE CHAIR MEDINA: I think the suggestion
3 to move the objective to page thirteen as an objective,
4 that works.

5 The second paragraph, the measurement criteria,
6 how would you, where would that be placed? Are you
7 suggesting, Mr. Paparian, that that be left as a
8 performance measure?

9 COMMITTEE MEMBER PAPARIAN: Yes, that would be
10 number eight. Like the number seven, it would be,

11 "Before the next biennial
12 update, a review will be conducted of
13 the tire permitting and enforcement
14 programs to ensure consistency with
15 other Board permitting and
16 enforcement activities. The review
17 will be presented to the Board for
18 possible action."

19 And that would be similar to number seven then.

20 COMMITTEE CHAIR MEDINA: The only difference is
21 that number seven says, "Increase the number of local
22 government entities delegated enforcement authority." I
23 think that is, if you want to start out with the
24 affirmative on number seven you would say, "Conduct a
25 performance review before the next biennial update of

1 the five year plan."

2 MS. GILDART: I think what's happening, the
3 original language in number seven from the first five
4 year plan did say, "Increase the number of local
5 government entities delegated enforcement authority,"
6 and that met the typical criteria for performance
7 measure. However, that one was proposed to be dropped,
8 and I believe a new performance measure has been
9 proposed that now becomes seven. Just because it's
10 sequential that may not adhere to the classic language
11 of a performance measure, but it includes this review of
12 enforcement efforts.

13 I'd like to point out one thing in the language
14 being debated in the measurement criteria paragraph, and
15 that is I have concerns in lowering the tire facility
16 permit standards to meet the C&D. The fire standards
17 for the pile height and width, the depth, the distance
18 between piles, the width of a fire lane are based on
19 combustion characteristics of tire pile fires, not on
20 the combustion characteristics of wood waste, which does
21 not exude pyrolitic oils which, as you know, spread
22 fires farther.

23 COMMITTEE MEMBER PAPARIAN: That's very
24 important information. That's exactly the kind of stuff
25 that I would anticipate being presented to the Board --

1 MS. GILDART: It has been.

2 COMMITTEE MEMBER PAPARIAN: -- where there are
3 similarities or where there are differences. But I
4 don't think that that necessarily speaks to inspection
5 frequencies or some of the other items.

6 Mr. Chairman, maybe the way to do this, I'm
7 starting to understand where you're coming from on this.
8 Maybe we can just take that whole box, the objective and
9 the measurement criteria, and combine it into one
10 paragraph and put that paragraph on page thirteen where
11 it was proposed. So that, you know, it's clear in the
12 plan that this thing will get done, and you don't have
13 to worry about the language about, you know, how to make
14 it consistent with the language of the other performance
15 measures, but it will be clear in the plan that it will
16 get done.

17 MS. GILDART: Then we may need to add to the
18 objective language some revision to SB 876 since the
19 enforcement inspection frequency is set in statute. So
20 if that the recommendation of the Board, we could
21 approach someone in the legislature to carry that
22 statutory change.

23 COMMITTEE MEMBER PAPARIAN: But some of the
24 recommendations could involve statutory change. In
25 fact, the plan is predicated, in part, on statutory

1 change.

2 So I have no problem with this review coming
3 forward and identifying those things that would require
4 statutory change, and those things that would not
5 require statutory change.

6 COMMITTEE MEMBER JONES: Mr. Chair.

7 COMMITTEE CHAIR MEDINA: Board Member Jones.

8 COMMITTEE MEMBER JONES: I can't support it. I
9 mean, you know, I was willing to support parts of it,
10 but I can't support it. I think we're trying to put a
11 round hole in a square peg here. And until the language
12 gets cleaned up so we can understand. The state minimum
13 standards for each type of our facilities that we do are
14 different. And to compare one against the other, I
15 don't know to what purpose that is. So I think it's
16 just confusing the issue.

17 COMMITTEE MEMBER PAPARIAN: I think we're going
18 in a new direction with enforcement and with permitting,
19 and that was demonstrated in the C&D regs.

20 COMMITTEE MEMBER JONES: It was also
21 demonstrated in 876 when we said that we would increase
22 the local enforcement throughout the state, and we've
23 actually done over the last two years that we've adhered
24 to 876.

25 COMMITTEE MEMBER PAPARIAN: So this wouldn't

1 mandate a change, it would require us to look at what's
2 there, where there's consistencies, where there's not,
3 and have the Board take a look at that and evaluate it.

4 It's a very simple concept. It's not requiring
5 the change. It doesn't by itself require changes of
6 legislation. That would be up to the Board to pursue at
7 a later time.

8 COMMITTEE CHAIR MEDINA: At this point there is
9 no agreement in regard to any common language, so at
10 this point I'm going to leave that out and move onto
11 other items where we do have some agreement.

12 MS. GILDART: The next change is on page 34
13 under, "Direction provided by SB 876." There was a
14 paragraph, text inserted that had not been approved --
15 oh, I'm sorry, I've jumped ahead.

16 There's an item on page 24, it's not in gray
17 text so I skipped it. It is a new table trying to
18 compile the information that had originally been
19 contained in table six. But we've taken out reference
20 to specific sites, and have rather shown totals in
21 numbers of tires and cost of remediation for the entire
22 year.

23 And that was the attempt to address the
24 concerns as to how the dollar amount was reached in the
25 short-term remediation budget without tying in exact

1 dollars to specific sites.

2 COMMITTEE MEMBER JONES: Mr. Chair.

3 COMMITTEE CHAIR MEDINA: Board Member Jones.

4 COMMITTEE MEMBER JONES: I have no problem with
5 that, but I'd take the dollar sign off of that last
6 column.

7 MS. GILDART: Oh.

8 COMMITTEE CHAIR MEDINA: Very good, thanks for
9 catching that.

10 And if there's no objection, we'll go, move
11 forward to table five.

12 MS. GILDART: One thing to point out is the
13 dollars there are estimated based on the number of
14 tires. The dollars in the actual short-term remediation
15 budget, while they total 5.5 million over the five
16 years, may not be the same on any one fiscal year
17 because our contracts typically extend for two to three
18 years, and we have multiple years funding available.

19 So I just wanted to point out that it's not an
20 exact year by year match. Okay.

21 So now we can go to page 34. This was a
22 paragraph that was not resolved at the committee
23 meeting. I just wanted to point out we are planning to
24 carry it forward to the Board if that is still the
25 committee's request.

1 COMMITTEE MEMBER JONES: Which one?

2 MS. GILDART: I'm sorry, "Direction provided by
3 876." Where it says, "Proposed text inserted by Board
4 Member Paparian. Intent language from SB 876 states
5 that, among other things --"

6 This is one that was skipped at the committee,
7 and we're not sure if the committee now wishes to
8 discuss it more or just present it to the Board? It's
9 out of the intent language in the front. It's
10 non-codified law, but it's part of the SB 876 intent
11 language.

12 COMMITTEE CHAIR MEDINA: And it's right out of
13 876?

14 MS. GILDART: Right out of 876.

15 COMMITTEE CHAIR MEDINA: I have no problem
16 including it.

17 COMMITTEE MEMBER JONES: I don't either.

18 MS. GILDART: Okay.

19 COMMITTEE MEMBER WASHINGTON: Is that
20 appropriate language, "The purpose of this act --"
21 something is missing here -- "requires us to do all of
22 the following:"

23 MS. GILDART: Whoops, you're right.

24 MR. LEE: It's probably a typo. I --

25 MS. GILDART: I think it is, "The purpose of

1 this act is -- "

2 COMMITTEE MEMBER PAPARIAN: "Is" is the missing
3 word?

4 MS. GILDART: "-- to encourage tire
5 manufacturers to promote the use of retreaded and
6 longer-lasting tires, as well as develop recycled
7 content rubber tires."

8 Okay. So we will leave that in without the
9 shading for the next version.

10 The next change is on page 48. This is under
11 objectives. The goal two language says, "Increase the
12 diversion of waste tires to 80 percent by the year
13 2006." That was the proposal from staff.

14 I believe member Paparian had proposed language
15 saying, "Achieve a goal of three percentage annual
16 increase in the amount of reuse and recycling of waste
17 tires."

18 Once again, what the staff is trying to do is
19 to set a goal that extends over multiple years and,
20 somewhat similar to the, you know, AB 939, you know,
21 fifty percent over a ten year goal, rather than try and
22 adhere year by year when there may be fluctuations in,
23 you know, economy and market prices and all that that
24 make it hard on one year but that we may do more on the
25 other. So we're once again trying to look at a larger

1 block of time.

2 COMMITTEE CHAIR MEDINA: I think using the
3 analogy of 939 makes sense rather than year by year --

4 COMMITTEE MEMBER PAPARIAN: This actually --

5 COMMITTEE CHAIR MEDINA: -- from my
6 perspective.

7 COMMITTEE MEMBER PAPARIAN: This actually is
8 not, they're not mutually exclusive goals, they're
9 complementary goals actually.

10 The reuse and recycling of waste tires is a
11 component of diversion from landfills. So whether or
12 not this other, where this three percent goal is
13 suggesting that reuse and recycling ought to increase by
14 three percent per year, at the same time that you're
15 trying to divert an increasing number of tires away from
16 landfills.

17 MS. GILDART: At the moment the tire diversion
18 rate is somewhere in the low 70 percent, roughly 74
19 percent, I believe, in the year 2001. So to reach 80
20 percent is a fairly significant increase, particularly
21 when, as you get towards the upper end of that recycling
22 rate, it's going to be a little more difficult. We were
23 just looking at a broader application of a goal.

24 If people want to differentiate between
25 diversion methods and recycling methods, could we then

1 also have that broader goal of X percent within certain
2 numbers of years instead of year by year?

3 One of the things I'm concerned about, as we
4 all know, is the economic times have become, you know,
5 very frightening. A lot of energy, the increases in
6 energy costs, there are a lot of shortfalls in public
7 budgets, a lot of the tire recycling efforts are
8 supported through public dollars, through playgrounds
9 and tracks and rubberized asphalt.

10 If those dollars are not available because of
11 budget tightness, then how do we achieve three percent
12 in the very first year? We might be able to achieve it
13 in three to four years, but I just see things as being
14 rather uncertain in the next couple of years.

15 COMMITTEE CHAIR MEDINA: I have a concern again
16 using the 939 analogy rather than a set year by year
17 percentage, but rather set a goal in a given year.

18 COMMITTEE MEMBER JONES: Yeah, I'd support
19 that.

20 COMMITTEE CHAIR MEDINA: I myself see that more
21 logical.

22 COMMITTEE MEMBER JONES: I'd rather see just
23 two without that three percent.

24 MS. GILDART: So just two as it states there?

25 COMMITTEE MEMBER JONES: Yeah.

1 MS. GILDART: Okay.

2 COMMITTEE CHAIR MEDINA: Let's move onto the
3 next one.

4 MS. GILDART: The next one is on page 55. And
5 this is also one that we had not really reached any
6 consensus or direction from the committee. The language
7 there in the middle under performance measures, the
8 proposed text change, "Increase public awareness of
9 proper care and purchase of tire use --" oh, I'm sorry,
10 I remember now. This is where we all had similar ideas
11 but we had difficulty crafting the wording at the
12 committee meeting, right. So I think we've worked out
13 some wording.

14 "Increase public awareness of proper care and
15 purchase of tire use and products -- oh, dear, is that
16 how we did it?

17 "Increase public awareness of proper care and
18 purchase of tire use and products made from recycled
19 waste tires --" there's something wrong there.

20 COMMITTEE MEMBER PAPARIAN: I think make that
21 purchase of tires, take out the word use and then
22 continue.

23 MS. GILDART: I think that sounds much better.

24 "Increase public awareness of
25 proper care and purchase of tires and

1 products made from recycled waste
2 tires, or purchase of retreaded tires
3 and proper disposal of waste tires.

4 "Establish a baseline for
5 public knowledge of these areas,
6 develop and begin implementation of a
7 marketing plan to reach the public on
8 these issues."

9 I think that change much improves it.

10 COMMITTEE MEMBER JONES: Work for me.

11 MS. GILDART: And I think that is the last of
12 the changes that we hadn't covered fully in the
13 committee.

14 COMMITTEE CHAIR MEDINA: Okay. If that is the
15 last of the changes, then I'd like a motion to approve.

16 COMMITTEE MEMBER JONES: Mr. Chair.

17 COMMITTEE CHAIR MEDINA: Yes, Board Member
18 Jones.

19 COMMITTEE MEMBER JONES: I'll move adoption of
20 the text of the five year plan as directed by this
21 committee today.

22 COMMITTEE CHAIR MEDINA: Is there a second?

23 COMMITTEE MEMBER WASHINGTON: Second.

24 COMMITTEE CHAIR MEDINA: Call the roll, please.

25 COMMITTEE SECRETARY HARRIS: Jones?

1 COMMITTEE MEMBER JONES: Aye.

2 COMMITTEE SECRETARY HARRIS: Paparian?

3 COMMITTEE MEMBER PAPARIAN: No.

4 COMMITTEE SECRETARY HARRIS: Washington?

5 COMMITTEE MEMBER WASHINGTON: Aye.

6 COMMITTEE SECRETARY HARRIS: Medina?

7 COMMITTEE CHAIR MEDINA: Aye. This five year

8 plan will be moved to the full Board for its

9 consideration of adoption as well as the budget.

10 MR. LEE: Chairman Medina, we'd like to bring a

11 couple of things to your consideration. You know right

12 now that the item is scheduled for discussion only but,

13 you know, in the March 24th hearing we talked about a

14 schedule basically to bring it back before the Board at

15 the May meeting.

16 I'd like the opportunity to kind of discuss

17 this with the Executive Director and my staff to see if

18 we can, you know, basically move up the calendar to

19 actually have the report ready to be approved, you know,

20 by the Board at the April meeting.

21 So if we could get back to you on that

22 particular issue?

23 COMMITTEE CHAIR MEDINA: If you would, yes.

24 COMMITTEE MEMBER PAPARIAN: Yeah, I think we

25 did announce to the public that it would be at the May

1 meeting where final adoption would occur.

2 COMMITTEE CHAIR MEDINA: If we give proper
3 notice. Again in regards to this plan, I know it's been
4 in the pipeline for some time.

5 MR. LEE: If I can get just 24 hours to discuss
6 this with the staff and then get back to you?

7 COMMITTEE CHAIR MEDINA: The sooner that we can
8 deliver a five year plan to the legislature in a timely
9 manner, because we do not want to be late or tardy in
10 regard to delivering this five year plan to the state
11 legislature.

12 MR. LEE: I understand, sir.

13 COMMITTEE CHAIR MEDINA: And with that, if
14 there's no other issues.

15 Before we adjourn, are there any other members
16 of the public that wish to speak? I do not have any
17 speaker slips in front of me.

18 Hearing none, then we will adjourn for the day.
19 Thank you very much.

20 (Thereupon the foregoing was concluded at

21 3:52 p.m.)

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1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

2
3 I, DORIS M. BAILEY, a Certified Shorthand
4 Reporter and Registered Professional Reporter, in and
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9 by computer.

10 I further certify that I am not of counsel or
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14 IN WITNESS WHEREOF, I have hereunto set my hand
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